



Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024

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Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024.

2 Commencement

- (1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in this section.

- (2) Sections 176 and 177 come into force on 1 October 2005.
- (3) Sections 17(1) and (3), 38, 49, 63, 64, 99, 100, 107, 112, and 118(4), (19), (20), (47), and (54) come into force on 1 April 2008.
- (4) Section 86 comes into force on 1 April 2011.
- (5) Sections 67 and 68 come into force on 1 July 2011.
- (6) Section 168(1) comes into force on 1 October 2016.
- (7) Section 117 comes into force on 1 April 2017.
- (8) Section 12(1) and (7) comes into force on 29 March 2018.
- (9) Section 120 comes into force on 1 July 2018.
- (10) Section 159 comes into force on 18 March 2019.
- (11) Sections 129(6) and (8), 131, 132, and 135 come into force on 1 April 2019.
- (12) Section 168(2) comes into force on 1 December 2019.
- (13) Sections 57, 71, 118(12) and (27), 134, and 138 come into force on 1 April 2020.
- (14) Sections 141(1) and (3) and 142(1) and (3) come into force on 7 December 2020.
- (15) Sections 8(1) and (2), 9(3), 10(2), 11, 12(3), 18, 33, 45, 46, and 118(16), (24), (42), and (56) come into force on 27 March 2021.
- (16) Section 137(1) and (3) comes into force on 1 April 2021.
- (17) Section 173 comes into force on 26 October 2021.
- (18) Sections 150, 166(1), (3), and (4), 167(1), and 183 come into force on 30 March 2022.
- (19) Sections 28, 29, 30, 52, 72, 73, 76, 78, 113(1), 118(34) and (40), and 182 come into force on 1 April 2022.
- (20) Sections 13, 14, 23, 34, 51, and 118(25), (36), (37), (38), (48), (51), and (52) come into force on 1 July 2022.
- (21) Section 125(2) comes into force on 20 October 2022.
- (22) Sections 12(2) and (4), 16, 20, 21, 31, and 118(3), (5), and (35) come into force on 8 January 2023.
- (23) Section 125(3) and (4) comes into force on 9 March 2023.
- (24) Sections 9(1), 26, 66, 93, 124(2), 129(4), 137(2) and (4), 165, 166(2), 167(2), and 168(3) come into force on 1 April 2023.
- (25) Section 144 comes into force on 1 September 2023.
- (26) Section 124(3) comes into force on 26 October 2023.
- (27) Sections 35(1) and (3), 105(1), 118(26), 129(5), 130, and 156 come into force on 1 January 2024.
- (28) Sections 185 to 201 come into force on 31 March 2024.

- (29) Sections 15, 17(2), 19, 22, 27, 32, 39, 40, 47, 50, 54, 55, 56, 58, 59, 60, 61, 62, 69, 70, 74, 79, 82, 83, 84, 85, 87, 88, 89, 91, 92, 97, 103, 104, 113(2), 114, 116, 118(6), (13), (18), (21), (22), (23), (28), (29), (33), (39), (41), (43), (44), (45), (46), (49), (50), (53), (55), and (57), 121, 126, 133, 136, 157, and 171 come into force on 1 April 2024.
- (30) Sections 8(3), 12(5), 77, 118(9), (10), (11), (30), and (31), 127, 161, 170, 178, 179, and 180 come into force on 1 July 2024.
- (31) Sections 6, 7, 24, 102, 118(7), (8), and (32), 123(1) and (5), 129(3) and (7), 139, 140, 141(2), 142(2), 143(2), 145, 146, 147(2), 149, 151, 153, 155, and 158 come into force on 1 January 2025.
- (32) Sections 25, 36, 37, 41, 42, 43, 44, 48, 53, 80, 81, 115, 118(2) and (14), and 122 come into force on 1 April 2025.
- (33) Sections 35(2) and (4), 105(2), 108, 109, 110, 111, and 123(2), (3), (4), and (6) come into force on 1 January 2026.
- (34) Section 154 comes into force on 1 January 2027.
- (35) Section 124(5) comes into force on 1 April 2028.

Part 1

Annual rates of income tax

3 Annual rates of income tax for 2023–24 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2023–24 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2

Amendments to Income Tax Act 2007

4 Amendments to Income Tax Act 2007

This Part amends the Income Tax Act 2007.

5 Section BC 7 amended (Income tax liability of person with schedular income)

- (1) In section BC 7(5), replace “of a natural person investor” with “of a natural person who is resident in New Zealand and is an investor”.
- (2) In section BC 7, list of defined terms, insert “natural person” and “resident in New Zealand”.

6 Section BF 1 amended (Other obligations)

- (1) After section BF 1(b), insert:
- (bb) multinational top-up tax under Part H:

- (2) In section BF 1, list of defined terms, insert “multinational top-up tax”.

7 Section BH 1 amended (Double tax agreements)

- (1) Replace section BH 1(4) with:

Overriding effect

- (4) Despite anything in this Act, except the provisions listed in subsection (4B), or in any other Inland Revenue Act or the Official Information Act 1982 or the Privacy Act 2020, a double tax agreement has effect in relation to—
- (a) income tax:
 - (b) any other tax imposed by this Act:
 - (c) the exchange of information that relates to a tax, as defined in paragraph (a)(i) to (v) of the definition of **tax** in section 3(1) of the Tax Administration Act 1994.

Provisions

- (4B) The provisions of this Act referred to in subsection (4) are—
- (a) subsection (4C):
 - (b) subsection (5):
 - (c) subsection (5B):
 - (d) section BG 1 (Tax avoidance):
 - (e) section GB 54 (Arrangements involving establishments):
 - (f) section RF 11C (Interest paid by non-resident companies to non-residents).

Exclusion: multinational top-up tax

- (4C) A double tax agreement does not have effect in relation to multinational top-up tax unless the double tax agreement expressly provides otherwise.

- (2) In section BH 1, list of defined terms, insert “multinational top-up tax”.

8 Section CB 6A amended and replaced (Disposal within 10 years: Bright-line test for residential land)

- (1) In section CB 6A(7), delete “original”.
- (2) In section CB 6A, list of defined terms, insert “settlor”.
- (3) Replace section CB 6A with:

CB 6A Disposal within 2 years: bright-line test for residential land

Income if land disposed of within 2 years

- (1) An amount that a person derives from disposing of residential land is income of the person if the person’s bright-line end date is within 2 years of their bright-line start date.

Meaning of bright-line start date

- (2) A person's **bright-line start date** for their disposal of residential land is given in column 3 of the following table if the condition in column 2 of the relevant row is met for the person and the disposal:

Row	Condition to be satisfied	Bright-line start date for person's disposal of residential land
1	If none of the other rows apply	The date on which the instrument to transfer the land to the person was registered under the Land Transfer Act 2017
2	Land outside New Zealand	The date on which the instrument to transfer the land to the person was registered under foreign laws of a similar nature to the Land Transfer Act 2017
3	An instrument to transfer the land to the person was not registered before the person's bright-line end date	The date the person acquired an estate or interest in the land under section CB 15B
4	The land was acquired from another person on completion of a land development or subdivision	The date the sale and purchase agreement for the developed or subdivided land was entered into
5	The land results from the person subdividing their land (the undivided land)	The person's bright-line start date for the undivided land
6	The land is a freehold estate converted from a lease with perpetual right of renewal	The date of the grant of the leasehold estate
7	A joint tenancy is converted to a tenancy in common or a tenancy in common is converted to a joint tenancy	To the extent the person's share or notional share in the land is unchanged, the person's bright-line start date for the land before the conversion
8	A change of trustees	Where land is transferred from a trustee of a trust (trustee A) to another trustee of the trust (trustee B) as a result of a change in trustees, trustee B's bright-line start date is the bright-line start date trustee A had for the land

How to use this table: Read column 2 from top to bottom to find the condition that applies. For the condition in column 2 that is met, the person's bright-line start date is the date in column 3 of that same row.

Transfers of land to and from existing landowners

- (3) For the purposes of subsection (2), when a person who owns land (**pre-existing land**) has more land transferred to them (the **transferred land**) or transfers part of their pre-existing land (also the **transferred land**) to another person, the instrument of transfer for the transferred land is treated as being for the transferred land only and not being for the pre-existing land.

Meaning of bright-line end date

- (4) **Bright-line end date**, for a person's disposal of residential land, means—
- (a) the earliest of—
 - (i) the date the person enters into an agreement for the disposal:
 - (ii) the date on which the person makes a gift of the land:
 - (iii) the date on which the land is compulsorily acquired under any Act by the Crown, a local authority, or a public authority:
 - (iv) if there is a mortgage secured on the land, the date on which the land is disposed of by or for the mortgagee because the mortgagor defaulted; or
 - (b) if none of paragraph (a)(i) to (iv) apply, the date on which the estate or interest in the land is disposed of.

When this section does not apply

- (5) This section does not apply to a person's disposal of residential land if—
- (a) any of sections CB 6 to CB 12 apply:
 - (b) section CB 16A applies:
 - (c) section FC 9 (Residential land transferred to executor, administrator, or beneficiary on death of person) applies.

Relationship with subject matter

- (6) This section is modified by sections FB 3A, FO 10, and FO 17 (which provide rollover relief for land transferred on settlement of relationship property or company amalgamation) and subpart FD (Rollover relief from the bright-line test).

Defined in this Act: amount, bright-line end date, bright-line start date, dispose, income, land, lease, leasehold estate, local authority, mortgage, New Zealand, own, public authority, residential land, trust, trustee, year

- (4) Subsection (3) applies to a person's disposal of residential land if the bright-line end date for the land, as defined in the Income Tax Act 2007, is on or after 1 July 2024.

9 Section CB 6AB amended (Residential land transferred in relation to certain family trusts and other capacities)

- (1) Replace section CB 6AB(2), other than the heading, with:
- (2) When persons (the **transferees**) dispose of land that was transferred to them from a trustee of a trust that is a rollover trust (**trust A**), the bright-line acquisition date for the land is the bright-line acquisition date that the trustee of trust A had for the land if the trustee transfers the land to the transferees on or after 1 April 2022 and either,—
 - (a) if the transferees had previously transferred the land to the trustee, the transferees acquire proportionally the same amount of land back from

the trustee and, at the time the trustee transfers the land to the transferees,—

- (i) the transferees are beneficiaries of trust A; and
 - (ii) at least 1 transferee is a principal settlor of trust A; or
- (b) if the transferees had not previously transferred the land to the trustee, all transferees were principal settlors at the time the trustee acquired the land and at the time the trustee transferred the land to the transferees.

- (2) After section CB 6AB(2), insert:

Family trusts: transfers from trusts — modified proportionality rule

- (2B) For the purposes of the proportionality requirement in subsection (2)(a), in the case where a settlor who had previously transferred the land to the trustee has died, the proportionality requirement is met if the transferees receive at least the same proportion of the land back from the trustee as they had previously transferred.

- (3) Repeal section CB 6AB(5)(a).

10 Section CB 6AC amended (Residential land transferred in relation to certain Māori family trusts)

- (1) After section CB 6AC(2), insert:

Transfers from trusts — modified proportionality rule

- (2B) For the purposes of the proportionality requirement in subsection (2)(b), in the case where a settlor who had previously transferred the land to the trustee has died, the proportionality requirement is met if the transferees receive at least the same proportion of the land back from the trustee as they had previously transferred.

- (2) Repeal section CB 6AC(4)(a).

11 New cross-heading and section CB 15E inserted

After section CB 15D, insert:

Exclusion for land acquired from a co-owner on a partition or subdivision

CB 15E Disposals of land subject to section CW 3C

When this section applies

- (1) This section applies to a person for a disposal of land acquired from a co-owner on a partition or subdivision if—
- (a) the person derives income from the disposal under section CB 10(2) or CB 15(1); and
 - (b) at the time the person originally acquired their interest in the land that was partitioned or subdivided, the person was not associated with a

person that carried on a business of developing land or dividing land into lots.

Exclusion from some land provisions where no or minor acquisition of land while associated

- (2) The amount of income the person derives under section CB 10(2) or CB 15(1) from disposing of the land is exempt income if the person's end value proportion under section CW 3C (Certain partitions or subdivisions of land) is no more than 105% of their acquisition proportion under section CW 3C.

Partial exclusion from some land provisions where more than minor acquisition of land while associated

- (3) If subsection (2) does not apply, the amount of income the person derives under section CB 10(2) or CB 15(1) from disposing of the land is reduced by the amount calculated by the formula—

amount derived x (acquisition proportion ÷ end value proportion).

Definition of items in formula

- (4) The items in the formula are defined in subsections (5) to (7).

Amount derived

- (5) **Amount derived** is the amount the person derives from disposing of the land.

Acquisition proportion

- (6) **Acquisition proportion** is the person's acquisition proportion as described in section CW 3C.

End value proportion

- (7) **End value proportion** is the person's end value proportion as described in section CW 3C.

Exclusion for group members and members of consolidated group

- (8) If subsection (2) or (3) applies to prevent an amount from being income of a person who is a member of a wholly-owned group of companies or a consolidated group, the amount is not income of the person under section CV 1 or CV 2 (which apply to group companies and consolidated groups).

Defined in this Act: amount, associated, consolidated group, co-owner, dispose, exempt income, income, land, wholly-owned group of companies

12 Section CB 16A amended and replaced (Main home exclusion for disposal within 10 years)

- (1) After section CB 16A(1), insert:

Modified rule for constructing main home

- (1B) For the purposes of determining under subsection (1) whether residential land has been used for most of the bright-line period as a main home, the period in which the dwelling is constructed is ignored.

(2) Replace section CB 16A(1C), other than the heading, with:

(1C) **Exempt main home period limit** means—

- (a) 365 days:
- (b) a reasonable period in the case of a period during which person A—
 - (i) constructs a dwelling used as a main home for 1 or more main home persons:
 - (ii) remediates a dwelling affected by a North Island flooding event and that dwelling is used as a main home for 1 or more main home persons.

(3) Before subsection (3), insert:

Modified rule for transfers where rollover relief applies

(2B) For the purposes of determining whether subsection (1) applies, if person A was the transferee in a transaction to which section CB 6AB applied, the transferor’s use of the property is attributed to person A (for example, if the transferor used the property as a main home for 1 year, this is attributed to person A).

(4) In section CB 16A, list of defined terms, insert “North Island flooding events”.

(5) Replace section CB 16A with:

CB 16A Main home exclusion for disposal within 2 years

Main home exclusion

- (1) Section CB 6A does not apply to a person who disposes of residential land if the land has been used predominantly, for most of the bright-line period, for a dwelling that was the main home of—
 - (a) the person; or
 - (b) a beneficiary of a trust, if the person is a trustee of the trust and—
 - (i) a principal settlor of the trust does not have a main home; or
 - (ii) if a principal settlor of the trust does have a main home, it is that main home that the person is disposing of.

Modified rule for constructing main home

(2) For the purposes of determining under subsection (1) whether residential land has been used for most of the bright-line period predominantly for a dwelling that was the main home of the person or a beneficiary of a trust, as described in subsection (1), the period in which the dwelling was constructed is ignored.

When this section does not apply

- (3) The exclusion in subsection (1) does not apply to a person who disposes of residential land if—
 - (a) the exclusion has been used by the person twice within the 2 years immediately preceding the bright-line end date for the residential land:

- (b) the person has engaged in a regular pattern of acquiring and disposing of residential land described in subsection (1).

Person may include group of persons

- (4) For the purposes of subsection (3)(b), **person** includes a group of persons if the requirements of subsection (5) are met.

Meaning of group of persons

- (5) For the purposes of subsection (4), a **group of persons**—
- (a) means 2 or more persons when together all the persons occupy, or have occupied, residential land described in subsection (1); and
- (b) includes a person other than a natural person (the **non-natural person**) if another person referred to in paragraph (a) has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person can direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

Defined in this Act: bright-line end date, dispose, dwelling, group of persons, land, main home, own, principal settlor, residential land, trust, trustee, year

- (6) Subsection (5) applies to a person’s disposal of residential land if the bright-line end date for the land, as defined in the Income Tax Act 2007, is on or after 1 July 2024.
- (7) Subsection (1) applies to a person’s disposal of residential land if the person acquires an estate or interest in the land on or after 29 March 2018 and before 27 March 2021.

13 Section CD 2 amended (Distribution excluded from being dividend)

In section CD 2, after “section CD 34B”, insert “or CZ 41 (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years)”.

14 Section CD 34B amended (Distributions to members of co-operative companies)

After section CD 34B(1), insert:

Exclusion

- (1B) Despite subsection (1), this section does not apply to a distribution to which section CZ 41 (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) applies.

15 Section CD 44 amended (Available capital distribution amount)

- (1) After section CD 44(7)(db), insert:
- (dc) an amount is derived by the company that is subject to section HC 38(3) (Beneficiary income of certain close companies); or
- (2) Subsection (1) applies for the 2024–25 and later income years.

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

- (1) In section CE 1(2), words before the paragraphs, replace “CZ 29, and CZ 30” with “CZ 23B, and CZ 29 to CZ 30”.
- (2) In section CE 1(3)(a), replace “in sections CE 1B, and CW 16B to CW 16F, CZ 29, and CZ 30 (which relate to accommodation provided in connection with employment)” with “in sections CE 1B, CW 16B to CW 16F, CZ 23B, and CZ 29 to CZ 30 (which relate to accommodation provided in connection with employment),”.
- (3) In section CE 1(3)(b), replace “sections CW 16B to CW 16F, CZ 29, and CZ 30” with “sections CW 16B to CW 16F, CZ 23B, and CZ 29 to CZ 30”.

17 Section CH 8 amended (Market value substituted)

- (1) In section CH 8(1), replace “section GB 7 (Arrangements involving CFC control interests)” with “section GC 8 (Insufficient amount receivable by person)”.
- (2) In section CH 8(2)(a), replace “Disposals” with “Certain disposals”.
- (3) Subsection (1) applies for the 2008–09 and later income years.

18 Section CW 3C replaced (Certain subdivisions of land)

Replace section CW 3C with:

CW 3C Certain partitions or subdivisions of land

Exempt income where no more than minor economic disposal of land

- (1) An amount that a person who is a co-owner of land derives from disposing of land to another co-owner on a partition or subdivision is exempt income if the person’s proportion of the value of the land they receive on the partition or subdivision out of the total value of the land still held by persons who were co-owners, whether alone or jointly or in common with another person, is no less than 95% of their contribution to the cost of the land, including costs to subdivide, develop, and build on the land, as a proportion of the total cost.

Partially exempt income where more than minor economic disposal of land

- (2) If subsection (1) does not apply, an amount that a person who is a co-owner of land derives from disposing of land to another co-owner on a partition or subdivision is exempt income to the extent given by the following formula:

$$\text{amount derived} - (\text{total land value} \times (\text{acquisition proportion} - \text{end value proportion})).$$

Definition of items in formula

- (3) The items in the formula are defined in subsections (4) to (7).

Amount derived

- (4) **Amount derived** is the amount a co-owner receives from the disposal of their interest in the land to another co-owner on a partition or subdivision.

Total land value

- (5) **Total land value** is the total value of the land held by all persons who were co-owners, whether alone or jointly or in common with another person, at the end of the partition or subdivision.

Acquisition proportion

- (6) **Acquisition proportion** is the person's contribution to the cost of the land, including costs to subdivide, develop, and build on the land, as a proportion of the total cost.

End value proportion

- (7) **End value proportion** is the person's proportion of the value of the land they receive, whether alone or jointly or in common with another person, on the partition or subdivision out of the total value of the land still held by persons who were co-owners.

Meaning of co-owner

- (8) **Co-owner**, in relation to land, includes a company in which the person is a shareholder, a person acting in their personal capacity, or their capacity as a trustee of a trust, partner in a partnership, or owner of a look-through company, even if they became a co-owner of the land in a different one of those capacities.

Defined in this Act: amount, co-owner, company, dispose, exempt income, land, look-through company, partner, partnership, shareholder, trustee

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

- (1) After section CW 10(6), insert:

Relationship with other provisions

- (7) This section overrides section HC 38 (Beneficiary income of certain close companies).
- (2) Subsection (1) applies for the 2024–25 and later income years.

20 Section CW 16B amended (Accommodation expenditure: out-of-town secondments and projects)

In section CW 16B(5), replace “CZ 29, and CZ 30” with “and CZ 29 to CZ 30”.

21 Section CW 16C amended (Time periods for certain accommodation expenditure)

In section CW 16C(6), replace “or CZ 29 (Accommodation expenditure: Canterbury earthquake relief)” with “, CZ 29 (Accommodation expenditure: Canterbury earthquake relief), or CZ 29B (Accommodation expenditure: North Island flooding events)”.

22 Section CW 35 amended (Personal service rehabilitation payments)

In section CW 35(2), replace “CZ 36, DF 4, and LB 7” with “DF 4, LB 7, and RD 20B”.

23 Section CW 52B amended (Disability support services)

In section CW 52B(1), replace “or the Māori Health Authority” with “, the Māori Health Authority, the Ministry for Disabled People, or the Ministry of Health”.

24 Section CW 57 amended (Non-resident company involved in exploration and development activities)

- (1) In section CW 57(1)(a), replace “2020” with “2025”.
- (2) In section CW 57(1)(b), replace “2024” with “2029”.

25 Section CW 62C repealed (Income from foreign-currency loans used for disallowed residential property)

Repeal section CW 62C.

26 Section CX 19D amended (Certain self-powered and low-powered vehicles and vehicle-share services)

After section CX 19D(4), insert:

Secondary legislation

- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

27 New cross-heading and section CX 58B inserted

- (1) After section CX 58, insert:

*Certain amounts from trusts***CX 58B Amounts derived by certain close companies from trusts**

To the extent to which section HC 38 (Beneficiary income of certain close companies) applies to an amount of beneficiary income of a close company, the amount is excluded income of the close company.

Defined in this Act: amount, beneficiary income, close company, excluded income

- (2) Subsection (1) applies for the 2024–25 and later income years.

28 New section CZ 25C inserted (Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation)

- (1) After section CZ 25B, insert:

CZ 25C Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,—
- (a) in or before the current year, derives for buildings or land (the **affected property**), all of which is revenue account property under section CB 6, CB 7, CB 12, or CB 13 (which relate to income from certain disposals of land), insurance, a government or local authority buy-out or other compensation, or a combination of these, if a North Island flooding event damages the land or the building, or the neighbourhood of the building, causing the building to be useless for the purpose of deriving income and consequently to be demolished or abandoned for later demolition; and
 - (b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CB 6, CB 7, CB 12, CB 13, or CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) from the compensation or insurance for the affected property that exceeds the total amount of deductions under section DB 23 (Cost of revenue account property) for the affected property; and
 - (c) plans, in the current year, to acquire property (the **replacement property**)—
 - (i) replacing affected property; and
 - (ii) meeting the requirements of subsection (4); and
 - (iii) having a cost exceeding the total amount of deductions under section DB 23 for the affected property; and
 - (d) notifies the Commissioner under subsection (6) in relation to the affected property.

Suspended recovery income

- (2) The amount (the **excess recovery**) by which the insurance income referred to in subsection (1)(b) exceeds the deductions referred to in subsection (1)(b) is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under subsection (3) that is attributed to an income year by subsection (5).

Effect of purchase of replacement property

- (3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,—
- (a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person's expenditure on the replacement property is reduced by—
 - (i) the amount calculated by dividing the replacement cost by the total amount of deductions under section DB 23 for the affected property and multiplying the result by the excess of the insurance income over the replacement cost, if the insurance income exceeds the replacement cost and the calculated amount is less than or equal to the amount of insurance income; or
 - (ii) the amount of the excess recovery, if the insurance income does not exceed the replacement cost or is less than the amount calculated in subparagraph (i); and
 - (b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under paragraph (a) for the purposes of section EA 2.

Requirements for replacement property

- (4) For an item of affected property, replacement property must be a building or land that is revenue account property—
- (a) acquired in or before the person's 2027–28 income year; and
 - (b) located in New Zealand.

Amount remaining at end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt

- (5) The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—
- (a) the current year ends, if the current year is the 2027–28 income year;
 - (b) in the current year, the person decides not to replace the affected property;
 - (c) in the current year, the person goes into liquidation or becomes bankrupt.

Notice of election for affected property

- (6) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must notify the Commissioner—
- (a) by the later of 30 April 2024 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and

- (b) if the current year is after the estimate year,—
 - (i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
 - (ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

- (7) The Commissioner may allow the person to file the notice under subsection (6) at a later time if the Commissioner considers there are exceptional circumstances.

Contents of notice of election

- (8) A notice under subsection (6) must—
 - (a) describe the affected property; and
 - (b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and
 - (c) give the cost of the replacement property and the reduction under subsection (3) of that cost for the purposes of section EA 2; and
 - (d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year.

Relationship to other sections

- (9) This section overrides sections CB 6, CB 7, CB 12, CB 13, and CG 6.

Defined in this Act: amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income, revenue account property

- (2) Subsection (1) applies for the 2022–23 and later income years.

29 New section CZ 25D inserted (Improvements to farmland and horticultural plants affected by North Island flooding events and replaced—insurance or compensation)

- (1) After section CZ 25C, insert:

CZ 25D Improvements to farmland and horticultural plants affected by North Island flooding events and replaced—insurance or compensation

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,—
 - (a) in or before the current year, receives an amount of insurance or compensation for improvements to land subject to section DO 4 or DO 5 (which relate to improvements to land) (the **affected property**) that was damaged or destroyed by a North Island flooding event; and

- (b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CG 4 (Receipts for expenditure or loss from insurance, indemnity, or otherwise) from the compensation or insurance for the affected property; and
- (c) has claimed deductions for the affected property under 1 or more of section DO 4, DO 5, or DO 11 (which relate to improvements to land); and
- (d) plans, in the current year, to acquire property (the **replacement property**)—
 - (i) replacing the affected property; and
 - (ii) meeting the requirements of subsection (4); and
- (e) notifies the Commissioner under subsection (7) in relation to the affected property.

Insurance or compensation not income

- (2) The amount of the insurance or compensation is not income unless subsection (3) or (6) applies.

Income where insurance or compensation proceeds exceed replacement cost

- (3) Where the person incurs expenditure (the **replacement cost**) in the current year to acquire replacement property and the amount of the insurance or compensation exceeds the replacement cost,—
 - (a) the amount of the insurance or compensation is income in the current year to the extent to which it exceeds the replacement cost; but
 - (b) the amount of that income is reduced to the extent to which the amount of the insurance or compensation is also greater than the original cost of the affected property.

Value of replacement property

- (4) If the person acquires replacement property, the value attributed to the expenditure to acquire the replacement property for the purposes of section DO 4 or DO 5, as applicable, is,—
 - (a) if the insurance income is equal to or greater than the replacement cost, zero;
 - (b) if the insurance income is less than the replacement cost, the extent to which the replacement cost exceeds the insurance income.

Requirements for replacement property

- (5) For an item of affected property, replacement property must be an improvement to farm land as described in schedule 20, part A (Expenditure on farming, horticultural, aquacultural, and forestry improvements) or a listed horticultural plant—

- (a) acquired in or before the person's 2027–28 income year; and
- (b) located in New Zealand.

Income if replacement property not acquired by end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt

- (6) The person has an amount of income for the affected property in the current year equal to the insurance income when—
 - (a) the current year ends, if the current year is the 2027–28 income year:
 - (b) in the current year, the person decides not to replace the affected property:
 - (c) in the current year, the person goes into liquidation or becomes bankrupt.

Notice of election for affected property

- (7) A person choosing to rely on this section to suspend in a current year the recognition of income from the insurance for affected property must notify the Commissioner—
 - (a) by the later of 30 April 2024 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and
 - (b) if the current year is after the estimate year,—
 - (i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
 - (ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

- (8) The Commissioner may allow the person to file the notice under subsection (7) at a later time if the Commissioner considers there are exceptional circumstances.

Contents of notice of election

- (9) A notice under subsection (7) must—
 - (a) describe the affected property; and
 - (b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and
 - (c) give the cost of the replacement property and the value attributed to that cost under subsection (4) for the purposes of section DO 4 or DO 5, as applicable; and
 - (d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under subsection (2) at the end of the current year.

Relationship to section CG 4

- (10) This section overrides section CG 4.

Defined in this Act: amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income

- (2) Subsection (1) applies for the 2022–23 and later income years.

30 New section CZ 26B inserted (Land and buildings affected by North Island adverse weather event—sections CB 6A, CB 9 to CB 11, and CZ 39 overridden for local authority and Crown purchases)

- (1) After section CZ 26, insert:

CZ 26B Land and buildings affected by North Island adverse weather event—sections CB 6A, CB 9 to CB 11, and CZ 39 overridden for local authority and Crown purchases

Sections CB 6A, CB 9 to CB 11, and CZ 39 (which relate to income from disposals of land) do not apply to a person and land or buildings, or both, purchased by the Crown or a local authority from the person if the land or buildings, or both, were damaged by a North Island adverse weather event.

Defined in this Act: land, local authority, North Island adverse weather event

- (2) Subsection (1) applies for the 2022–23 and later income years.

31 Section CZ 29B amended (Accommodation expenditure: North Island flooding events)

- (1) In section CZ 29B(3), replace “6 months” with “5 years”.
- (2) After section CZ 29B(3), insert:

How time limit determined

- (3B) For the purposes of this section and section CW 16C, the time limit is determined by whether the actual period of continuous work of the employee at the distant workplace is for a period of no more than 5 years.

- (3) In section CZ 29B(4), words before the paragraphs, replace “The time limit” with “Any time limit”.
- (4) In section CZ 29B(4)(b), replace “the time limit” with “the expiry of the relevant time limit”.
- (5) In section CZ 29B, list of defined terms, insert “period of continuous work” and “project of limited duration”.
- (6) In section CZ 29B, list of defined terms, replace “North Island flooding event” with “North Island flooding events”.

32 Section CZ 38 repealed (Disposals of trading stock to non-associates without business purpose)

Repeal section CZ 38.

33 Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)

After section CZ 40(2), insert:

Modified rule for constructing main home

- (2B) For the purposes of determining under subsection (2) whether residential land has been used for most of the bright-line period as a bright-line grandparented home, the period in which the dwelling is constructed is ignored.

Modified rule for transfers where rollover relief applies

- (2C) For the purposes of determining whether the land has been used predominantly for a dwelling that was the bright-line grandparented home as described in subsection (2), if person A was the transferee in a transaction to which section CB 6AB applied, the transferor's use of the property is attributed to person A (for example, if the transferor used the property as a main home for 1 year, this is attributed to person A).

34 New section CZ 41 inserted (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years)

After section CZ 40, insert:

CZ 41 Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years

What this section applies to

- (1) This section applies to a distribution by Fonterra to a supplying shareholder if the distribution is made for Fonterra's 2022–23, 2023–24, or 2024–25 income year.

Treatment of distribution

- (2) The distribution is not a dividend to the extent to which the distribution is for the supplying shareholder's—
- (a) transaction shares:
 - (b) projected transactions shareholding:
 - (c) qualifying non-transaction shares:
 - (d) projected qualifying non-transaction shareholding.

Companies Act 1993

- (3) The 20-working-day rule for fixing a date in section 125(2) of the Companies Act 1993 does not apply to shareholders' entitlements to receive distributions from Fonterra if, for the purposes of subsection (1) of that section, the board of Fonterra has fixed a date in relation to shareholders' entitlements to receive distributions before the entitlements arise and that date is within the year or period to which the distributions relate.

Some definitions

(4) In this section,—

Fonterra means Fonterra Co-operative Group Limited

projected qualifying non-transaction shareholding means the number of qualifying non-transaction shares in Fonterra that the supplying shareholder would have held if the trading transactions actually had occurred that the supplying shareholder had projected, using reasonable assumptions, would occur in the period to which the distribution relates

projected transactions shareholding means the number of shares in Fonterra that the supplying shareholder would have had to hold if the trading transactions actually had occurred that the supplying shareholder had projected, using reasonable assumptions, would occur in the period to which the distribution relates. The number of shares must determine the value of the trading transactions

qualifying non-transaction shares means the number of shares in Fonterra that the supplying shareholder holds—

- (a) that are not transaction shares and are not their projected transactions shareholding; but
- (b) not including any shares in Fonterra that the supplying shareholder holds described in paragraph (a) in excess of the nearest whole number to the number calculated by multiplying the supplying shareholder's transaction shares on the date of entitlement for the distribution under section 125 of the Companies Act 1993 by 2.0303

supplying shareholder means a supplying shareholder, within the meaning of that term in section 34 of the Co-operative Companies Act 1996, in relation to Fonterra

trading transactions means transactions between the supplying shareholder and Fonterra that are—

- (a) the disposal and acquisition of trading stock of the vendor that is not intangible property; and
- (b) not subject to section CB 2 (Amounts received on disposal of business assets that include trading stock)

transaction shares means the number of shares in Fonterra that the supplying shareholder holds for trading transactions that occurred in the period to which the distribution relates. The number of shares must determine the value of the trading transactions.

Defined in this Act: dividend, Fonterra, income year, projected qualifying non-transaction shareholding, projected transactions shareholding, qualifying non-transaction shares, share, supplying shareholder, trading stock, trading transactions, transaction shares

35 Section DB 1 amended (Taxes, other than GST, and penalties)

(1) Replace section DB 1(1)(b) with:

- (b) a tax imposed in a country or territory outside New Zealand that is 1 or more of the following:
- (i) substantially the same as income tax:
 - (ii) based on Articles 2.1 to 2.3 of the global anti-base erosion model rules:
 - (iii) based on Articles 2.4 to 2.6 of those model rules:
 - (iv) a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of those model rules:
 - (v) substantially the same as the tax that will be imposed by this Act—
 - (A) when all the provisions of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (the **amendment Act**) listed in section 2(31) and (33) of the amendment Act have come into force; and
 - (B) because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules made by section 123(3) of the amendment Act:

(2) Replace section DB 1(1)(b)(v) (as inserted by subsection (1)) with:

- (v) substantially the same as multinational top-up tax payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules):

(3) In section DB 1, list of defined terms, insert “global anti-base erosion model rules”.

(4) In section DB 1, list of defined terms, insert “multinational top-up tax”.

36 Section DB 7 amended (Interest: most companies need no nexus with income)

Repeal section DB 7(6C).

37 Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)

Repeal section DB 8(6C).

38 Section DB 46 replaced (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise)

(1) Replace section DB 46 with:

DB 46 Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise*When this section applies*

- (1) This section applies when a person—
- (a) carries on a business in New Zealand; and
 - (b) the person incurs, in the business or in ending the operations of the business, expenditure that is—
 - (i) of a kind listed in schedule 19, in either part A or B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C; and
 - (ii) not incurred in relation to revenue account property other than land that is subject to section CB 8 (Disposal: land used for landfill, if notice of election); and
 - (c) no other provision allows a deduction for the expenditure.

Amount and timing of deduction

- (2) The person is allowed for an income year a deduction for the expenditure of,—
- (a) if paragraphs (b) and (c) do not apply, an amount that is calculated using the formula—

rate × value:
 - (b) if the operations of the business for which the expenditure was incurred come to an end in the income year, the diminished value or adjusted value of the expenditure for the income year:
 - (c) if an improvement to land described in schedule 19, part A, on which the expenditure was incurred is destroyed or is rendered useless for the purposes for which the expenditure was incurred, and paragraph (b) does not apply, the diminished value or adjusted value of the expenditure for the income year.

Definition of items in formula

- (3) The items in the formula in subsection (2)(a) are defined in subsections (4) and (6).

Rate

- (4) **Rate** is—
- (a) 100% if the expenditure is of a kind listed in schedule 19, part A, item 1, or part B and neither paragraph (b) nor (c) applies:
 - (b) the appropriate rate under subsection (5) if—
 - (i) the expenditure is of a kind listed in schedule 19, part A, items 2 to 5; and

(ii) paragraph (c) does not apply:

- (c) the rate for the kind of expenditure, the income year, the valuation method adopted under subsection (6), and the person determined by the Commissioner under section 91AAN of the Tax Administration Act 1994 if such a rate is determined.

Schedule 12 rates

- (5) The rate for expenditure if the requirements of subsection (4)(b) are met is—
- (a) the rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in subsection (7) if the person chooses to use the straight-line equivalent method:
- (b) the rate set out in schedule 12, column 1 that corresponds to the rate under paragraph (a) if the person chooses to use the diminishing value equivalent method.

Value

- (6) **Value** is—
- (a) the amount of the expenditure incurred if the person chooses to use the straight-line equivalent method:
- (b) the diminished value of the expenditure for the income year if the person chooses to use the diminishing value equivalent method.

Formula for rate for expenditure with assumed life

- (7) The formula for the rate referred to in subsection (5)(a) for a kind of expenditure to which subsection (4)(b) applies is—
- $$100\% \div \text{assumed life.}$$

Definition of item in formula

- (8) In the formula in subsection (7), **assumed life** for expenditure and an income year is,—
- (a) for expenditure associated with a business activity that does not require a resource consent, 35:
- (b) for expenditure associated with a business activity that requires a resource consent, the lesser of 35 and the number of years in the period of the resource consent that include or follow the time at which the expenditure is incurred.

Adjusted value

- (9) In this section, **adjusted value** means, where the person chooses to use the straight-line equivalent method, the amount calculated using the formula—
- $$\text{amount of expenditure} - \text{deductions allowed} + \text{income derived.}$$

Definition of items in formula

- (10) In the formula in subsection (9),—
- (a) **amount of expenditure** is the total amount of the expenditure incurred;
 - (b) **deductions allowed** is the total amount of the expenditure allowed as a deduction in previous income years;
 - (c) **income derived** is the total amount of income derived under section CB 28(8) (Environmental restoration accounts) in relation to the expenditure.

Diminishing value equivalent method

- (11) In this section, **diminishing value equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the diminished value of the expenditure from the diminished value of the expenditure.

Straight-line equivalent method

- (12) In this section, **straight-line equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the amount of the expenditure incurred from the adjusted value of the expenditure.

Link with subpart DA

- (13) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: adjusted value, amount, business, capital limitation, deduction, diminished value, diminishing value equivalent method, general limitation, general permission, income, income year, New Zealand, revenue account property, straight-line equivalent method

- (2) Subsection (1) applies for the 2008–09 and later income years. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—
- (a) in the period that starts on the first day of the 2008–09 income year and ends on the day after this Act receives the Royal assent; and
 - (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant or the making of noise; and
 - (c) relying on section DB 46 as it was before the amendments made by subsection (1) and sections 49 and 118(4), (19), (20), and (47).

39 Section DB 59 amended (Market value substituted)

In section DB 59(2)(a), replace “Disposals” with “Certain disposals”.

40 New section DB 65B inserted (Allowance for embedded fit-out of certain commercial buildings)

- (1) Before section DB 66 and the cross-heading **Feasibility expenditure**, insert:

DB 65B Allowance for embedded fit-out of certain commercial buildings*When this section applies*

- (1) This section applies when—
- (a) a person owns a commercial building and the building is depreciable property with an annual rate of 0% in an income year; and
 - (b) the building was acquired in the 2010–11 or an earlier income year; and
 - (c) the person has never had a deduction for commercial fit-out that was acquired at the same time as the building and relates to the building other than under—
 - (i) this section:
 - (ii) section DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020.

Deduction for commercial fit-out

- (2) Except as provided in subsection (4), the person is treated as having a loss for the income year equal to the amount calculated using the formula—
- $$\text{starting pool} \times 0.015 \times \text{whole months} \div 12.$$

Calculation of starting pool

- (3) Starting pool is the amount given by the formula—
- $$(0.15 \times \text{building atv}) - \text{fit-out atv}.$$

Deduction limited to value of starting pool

- (4) Despite subsection (2), if the amount given by the formula in subsection (2) is more than the amount given by the formula in subsection (5), then the person is treated as having a loss for the income year equal to the amount given by the formula in subsection (5).

Calculation of deduction limit

- (5) For the purposes of subsection (4), the formula is—
- $$\text{starting pool} - \text{historical fit-out deductions} - \text{fit-out deductions} - \text{imputed deductions}.$$

Imputed deductions

- (6) The amount of the imputed deductions is—
- $$\text{starting pool} \times 0.015 \times 4.$$

Definition of items in formulas

- (7) In the formulas in subsections (2), (3), (5), and (6), as applicable, —
- (a) **starting pool** is the amount given by the formula in subsection (3):
 - (b) **whole months** is the number of whole months in the income year in which the building is used, or is available for use, by the person in

deriving assessable income or carrying on a business for the purpose of deriving assessable income:

- (c) **building atv** is the adjusted tax value of the building that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE (Depreciation):
- (d) **fit-out atv** is the total adjusted tax value of all items of commercial fit-out that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE if—
 - (i) the items of commercial fit-out relate to the building and were acquired after the building was acquired; and
 - (ii) the person has had a deduction for an amount of depreciation loss for the items of commercial fit-out:
- (e) **historical fit-out deductions** is the total amount of a person’s deductions allowed under section DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, for income years before the 2020–21 income year:
- (f) **fit-out deductions** is the total amount of deductions the person has claimed under this section for all income years:
- (g) **imputed deductions** is the amount given by the formula in subsection (6), being the total amount of deductions the person would have received for the 2020–21 to 2023–24 income years if this section applied from the beginning of the 2020–21 income year to the end of the 2023–24 income year.

Treatment of amounts under specific and general rules for deductions

- (8) The capital limitation does not apply to a loss under this section merely because the item of property is itself of a capital nature.

Defined in this Act: adjusted tax value, amount, assessable income, capital limitation, commercial building, commercial fit-out, deduction, depreciable property, depreciation loss, income year

- (2) Subsection (1) applies for the 2024–25 and later income years.

41 Section DG 2 amended (Application of this subpart)

Repeal section DG 2(3B).

42 Section DG 5 amended (Meaning and treatment of interest expenditure for this subpart)

- (1) Repeal section DG 5(2)(d).
- (2) In section DG 5, list of defined terms, delete “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

43 Section DG 10 amended (Interest expenditure rules)

- (1) Repeal section DG 10(1B).
- (2) In section DG 10, list of defined terms, delete “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

44 Section DG 14 amended (Interest expenditure: non-corporate shareholders)

Repeal section DG 14(4).

45 Section DH 4 amended (When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing)

Replace section DH 4(4), other than the heading, with:

- (4) This subpart does not apply to interest incurred by a person for land to the extent to which the land is used by an exempt housing provider solely for 1 or more of the following:
 - (a) social housing, as defined in section 2 of the Public and Community Housing Management Act 1992:
 - (b) temporary accommodation for people in need while they seek, or are assisted in finding, more permanent accommodation:
 - (c) accommodation for people in need:
 - (d) services connected with housing or accommodation described in paragraph (a), (b), or (c).

46 Section DH 5 amended (Key terms)

After section DH 5(3), insert:

Exempt housing provider

- (3B) **Exempt housing provider** means—
 - (a) a registered community housing provider under the Public and Community Housing Management Act 1992:
 - (b) a department listed in schedule 2, part 1 of the Public Service Act 2020:
 - (c) Kāinga Ora—Homes and Communities and its wholly-owned subsidiaries:
 - (d) a person contracted, directly or indirectly, by a department listed in schedule 2, part 1 of the Public Service Act 2020 to provide land for 1 or more of the uses listed in section DH 4(4).

47 Section DH 8 amended (Deduction not allowed)

- (1) Replace section DH 8(2) with:

Denial limited

- (2) The amount of the deduction denied for interest described in subsection (1) is limited to the following percentage for the following period:

Period that interest is incurred	Percentage denied
1 April 2024 – 31 March 2025	20%

- (2) In section DH 8(3), replace “quarterly interposed residential property percentage” with “quarterly interposed residential property percentage × denial percentage”.
- (3) After section DH 8(4)(b), insert:
- (c) **denial percentage** is the percentage denied in the table in subsection (2) for the period.

48 Subpart DH repealed (Interest incurred in relation to certain land)

Repeal subpart DH.

49 New section DO 9B inserted (Meaning of diminished value)

- (1) After section DO 9, insert:

DO 9B Meaning of diminished value*Meaning*

- (1) In section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise), sections DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DP 4, DZ 17, DZ 18, and schedule 20 (which relate to improvements to land and aquacultural business), **diminished value**, for an income year, means the amount calculated using the formula—

amount of expenditure + income derived – deductions allowed.

Definition of items in formula

- (2) In the formula in subsection (1),—
- (a) **amount of expenditure** is the amount of expenditure incurred—
- (i) on an improvement described in section DO 4, DO 5, DO 12, or DP 3:
 - (ii) of a type described in section DB 46:
- (b) **income derived** is the total amount of income derived under section CB 28(8) (Environmental restoration accounts) in relation to the expenditure:
- (c) **deductions allowed** is the total amount allowed as a deduction for the expenditure to any person—
- (i) in any earlier income years under this Act or an earlier Act:

- (ii) in the income year under this Act, except an amount allowed in the income year under section DB 46, DO 4, DO 5, DO 6, DO 12, or DP 3.

Defined in this Act: amount, deduction, diminished value, income, income year

- (2) Subsection (1) applies for the 2008–09 and later income years. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—
- (a) in the period that starts on the first day of the 2008–09 income year and ends on the day after this Act receives the Royal assent; and
- (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant or the making of noise; and
- (c) relying on the definition of **diminished value** as it was before the amendments made by subsection (1) and section 118(19).

50 Section DP 10 amended (Cost of acquiring timber or right to take timber: other cases)

- (1) In section DP 10(2), words before the paragraphs, delete “EB 24,”.
- (2) Repeal section DP 10(2)(a).
- (3) In section DP 10(2)(c), replace “Disposals” with “Certain disposals”.
- (4) In section DP 10, list of defined terms, delete “pay”.

51 Section DV 11 amended (Distribution to member of co-operative company, excluded from being dividend)

- (1) In section DV 11(1), replace “(Distributions to members of co-operative companies)” with “or CZ 41 (which relate to distributions to members of co-operative companies)”.
- (2) In section DV 11(2), after “section CD 34B”, insert “or CZ 41, as applicable,”.

52 New section DZ 20B inserted (Expenditure incurred while income-earning activity interrupted by North Island flooding event)

- (1) After section DZ 20, insert:

DZ 20B Expenditure incurred while income-earning activity interrupted by North Island flooding event

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when—
- (a) the person has an income-earning activity in New Zealand immediately before a North Island flooding event; and

- (b) the activity is interrupted for a period (the **period of interruption**) as a result of the North Island flooding event; and
- (c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and
- (d) the interruption expenditure does not meet the requirements of the general permission for the person and the income-earning activity but would do so but for the interruption; and
- (e) the person resumes the income-earning activity in an income year (the **resumption year**) before the 2028–29 income year.

Deduction for interruption expenditure

- (2) The person is allowed a deduction for the interruption expenditure.

Timing of deduction

- (3) The deduction is allocated to the resumption year.

Link with subpart DA

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

Defined in this Act: deduction, general limitation, general permission, income year, loss, New Zealand, North Island flooding events, supplement

- (2) Subsection (1) applies for the 2022–23 and later income years.

53 New section DZ 24 (Amounts denied before 1 April 2025: treatment upon disposal of certain residential property for 2025–26 and later income years)

After section DZ 23, insert:

DZ 24 Amounts denied before 1 April 2025: treatment upon disposal of certain residential property

Disposal subject to section CB 6A: denied amount included as cost

- (1) An amount that has been denied as a deduction for property under section DH 8 (Deduction not allowed) before 1 April 2025 and that would have otherwise been allowed as a deduction is treated under section DB 23 (Cost of revenue account property) as a cost for the person of the relevant property in the income year of the disposal of the property if the amount derived from the disposal is income under section CB 6A (Disposal within 2 years: bright-line test for residential land).

Disposal not subject to section CB 6A: denied amount allocated under subpart EL

- (2) An amount that has been denied as a deduction for property under section DH 8 before 1 April 2025 and that would have otherwise been allowed as a deduction is allowed as a deduction in the income year of the disposal of the

relevant property, and is subject to allocation under subpart EL (Allocation of deductions for excess residential land expenditure), if the property is or was residential rental property for the purposes of subpart EL and the amount derived from the disposal of the property—

- (a) is income under a section other than section CB 6A; and
- (b) is not income under section CB 6A.

Defined in this Act: amount, deduction, income, income year, residential rental property

54 Section EB 24 and cross-heading repealed

Repeal section EB 24 and the cross-heading above section EB 24.

55 Section EE 31 amended (Annual rate for item acquired in person’s 1995–96 or later income year)

- (1) In section EE 31(2)(d), replace “residential building” with “building”.
- (2) In section EE 31(3)(c), replace “residential building” with “building”.
- (3) In section EE 31, list of defined terms, insert “building” and delete “residential building”.
- (4) Subsections (1), (2), and (3) apply for the 2024–25 and later income years.

56 Section EE 35 amended (Special rate or provisional rate)

- (1) Replace section EE 35(2) with:

No special rate for excluded depreciable property, special excluded depreciable property, or building

- (2) A special rate may not be set for an item of excluded depreciable property, an item of special excluded depreciable property, or a building.
- (2) In section EE 35, list of defined terms,—
 - (a) delete “residential building”;
 - (b) insert “building” and “special excluded depreciable property”.
- (3) Subsections (1) and (2) apply for the 2024–25 and later income years.

57 Section EE 37 amended (Improvements)

- (1) In section EE 37(3)(a), after “(4) or (5)”, insert “unless the item is a grandparented structure, in which case the person must continue to treat the improvement as a separate item of depreciable property”.
- (2) In section EE 37, list of defined terms, insert “grandparented structure”.
- (3) Subsections (1) and (2) apply for the 2020–21 and later income years.

58 Section EE 48 amended (Effect of disposal or event)

- (1) Replace section EE 48(1C)(a) with:

(a) **item depreciation loss** is the total of the amounts of—

- (i) depreciation loss for which the person has been allowed deductions for the item; and
- (ii) if the item is a building, the total amount of deductions allowed under sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and DB 65B (which deal with allowances for commercial buildings):

(2) Subsection (1) applies for the 2024–25 and later income years.

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

(1) In section EE 60(1)(d), replace “previous deductions under section DB 65 (Allowance for certain commercial buildings)” with “deductions allowed under sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and DB 65B (which deal with allowances for commercial buildings)”.

(2) Subsection (1) applies for the 2024–25 and later income years.

60 Section EE 61 amended (Meaning of annual rate)

(1) In the heading to section EE 61(3B), replace “*residential buildings*” with “*buildings*”.

(2) In section EE 61(3B), replace “residential building” with “building”.

(3) Replace section EE 61(7B) with:

Special excluded depreciable property

(7B) The rate is 0% for all depreciation methods if the item is an item of special excluded depreciable property that would be an item of excluded depreciable property but for the exclusion in section EE 64(3).

(4) In section EE 61, list of defined terms,—

(a) delete “residential building”;

(b) insert “building” and “special excluded depreciable property”.

(5) Subsections (1) to (4) apply for the 2024–25 and later income years.

61 Section EE 64 amended (Meaning of excluded depreciable property)

(1) After section EE 64(2), insert:

Another exclusion

(3) **Excluded depreciable property** does not include special excluded depreciable property.

(2) In section EE 64, list of defined terms, insert “special excluded depreciable property”.

(3) Subsections (1) and (2) apply for the 2024–25 and later income years.

62 Section EE 67 amended (Other definitions)

- (1) In section EE 67, insert, in appropriate alphabetical order:
special excluded depreciable property means all buildings that are not items specified in schedule 39 (Items for purposes of definition of special excluded depreciable property)
- (2) Subsection (1) applies for the 2024–25 and later income years.

63 Section EW 37 amended (Consideration when person enters rules: accrued obligation)

- (1) After section EW 37(1)(a), insert:
 - (ab) the person is a non-resident who—
 - (i) becomes a party to the arrangement after 1 April 2008; and
 - (ii) becomes a transitional resident after becoming a party to the arrangement; and
 - (iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules:
- (2) In section EW 37, list of defined terms, insert “financial arrangements rules”.
- (3) Subsection (1) applies to a person and a financial arrangement if the person is not required to complete a base price adjustment for the financial arrangement before the date on which the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 receives the Royal assent.

64 Section EW 41 amended (Consideration when person enters rules: accrued entitlement)

- (1) After section EW 41(1)(a), insert:
 - (ab) the person is a non-resident who—
 - (i) becomes a party to the arrangement after 1 April 2008; and
 - (ii) becomes a transitional resident after becoming a party to the arrangement; and
 - (iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules:
- (2) In section EW 41, list of defined terms, insert “financial arrangements rules”.
- (3) Subsection (1) applies to a person and a financial arrangement if the person is not required to complete a base price adjustment for the financial arrangement before the date on which the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 receives the Royal assent.

65 Section EW 46C amended (Consideration when debt remitted within economic group)

(1) In section EW 46C(5), words before the paragraphs, replace “The creditor” with “Unless subsection (5C) applies, the creditor”.

(2) After section EW 46C(5), insert:

When subsection (5C) applies

(5B) Subsection (5C) applies when—

- (a) the relevant debt, creditor, and debtor are described in subsection (1)(a) or (b); and
- (b) the creditor is a person to which section EW 41 applies in relation to the relevant debt.

Consideration: special case

(5C) The creditor is treated as having been paid, on the date on which the amount of debt is remitted, the lesser of the following 2 amounts, or the first amount if they are the same:

- (a) the amount of debt;
- (b) the amount calculated by subtracting, from the amount of debt, any impairment of the relevant debt under generally accepted accounting practice at the time the creditor is treated under section EW 41(2) as having acquired their accrued entitlement to receive consideration in relation to the relevant debt.

(3) In section EW 46C, list of defined terms, insert “generally accepted accounting practice”.

(4) Subsections (1) and (2) apply in relation to an amount of debt that is remitted on or after the date on which those subsections come into force.

66 Section EW 46D amended (Consideration when insolvent company’s debt repaid with consideration received for issuing shares)

(1) After section EW 46D(1)(c), insert:

- (cb) the shares are not issued on conversion of a debt instrument that—
 - (i) was issued when the debtor satisfied the solvency test set out in section 4 of the Companies Act 1993; and
 - (ii) at the time of its issue, was convertible into shares at a future time; and

(2) In section EW 46D, list of defined terms, insert “issue”.

67 Section EX 35 amended (Exemption for interest in FIF resident in Australia)

In section EX 35(a), after “10% or more”, insert “, treating the period that the person has rights in the FIF as the accounting period for the purposes of

section EX 50(4) when the person does not have rights in the FIF for the entire accounting period”.

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

- (1) In section EX 46(3)(a), words before the subparagraphs, after “period”, insert “during which the person has rights in the FIF”.
- (2) In section EX 46(3)(a)(ii), after “10% or more”, insert “, treating the period that the person has rights in the FIF as the accounting period for the purposes of section EX 50(4) when the person does not have rights in the FIF for the entire accounting period”.

69 Section EZ 13 amended (Annual rate for item acquired on or after 1 April 1993 and before end of person’s 1994–95 income year)

- (1) In section EZ 13(2)(a), replace “residential building” with “building”.
- (2) In section EZ 13(2)(c), replace “residential building” with “building”.
- (3) In section EZ 13, list of defined terms,—
 - (a) delete “residential building”:
 - (b) insert “building”.
- (4) Subsections (1), (2), and (3) apply for the 2024–25 and later income years.

70 Section EZ 14 amended (Pre-1993 depreciation rate)

- (1) In section EZ 14(1), replace “residential buildings” with “buildings”.
- (2) In section EZ 14, list of defined terms,—
 - (a) delete “residential building”:
 - (b) insert “building”.
- (3) Subsections (1) and (2) apply for the 2024–25 and later income years.

71 Section EZ 23BD repealed (Loss on disposal of grandparented structure)

- (1) Repeal section EZ 23BD.
- (2) Subsection (1) applies for the 2020–21 and later income years.

72 New section EZ 23BE inserted (Property acquired after depreciable property affected by North Island flooding events)

- (1) After section EZ 23BD, insert:

EZ 23BE Property acquired after depreciable property affected by North Island flooding events

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,—

- (a) in or before the current year, receives insurance or compensation (the **flood compensation**) for items of depreciable property (the **affected property**), each of which is—
 - (i) not depreciable intangible property; and
 - (ii) included in one of the categories (an **affected class**) of the person's depreciable property referred to in subsection (12)(b); and
- (b) is entitled to the flood compensation because each item of the affected property, as a result of a North Island flooding event, is affected by—
 - (i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or
 - (ii) a disposal and reacquisition under section EZ 83; and
- (c) would have, in the absence of this section, from the flood compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and
- (d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in paragraph (c) by an amount (the **excess recovery**); and
- (e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of subsection (8); and
- (f) notifies the Commissioner under subsection (10)—
 - (i) specifying the affected property and affected class; and
 - (ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class.

Suspended recovery income

- (2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after—
 - (a) adjustment under subsections (4) and (7) for an earlier income year; and
 - (b) attribution to an earlier income year by subsection (9).

Depreciation recovery income

- (3) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by subsection (9).

Effect of acquiring item of replacement property if suspended recovery income from affected property not in pool

- (4) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property

for which the person does not use the pool method, the amount given by subsection (5)—

- (a) is treated as not being included in the amount of the person’s expenditure on the replacement item for the purposes of determining,—
 - (i) under section EE 16(4) (Amount resulting from standard calculation), the item value or cost for the replacement item, if the person uses the diminishing value method or straight-line method for the replacement item; or
 - (ii) under section EE 22 (Cases affecting pool), the cost of the replacement item, if the person uses the pool method for the replacement item; and
- (b) is a reduction in the amount of the suspended recovery income for the affected class.

Amount of reduction: expenditure on replacement item and suspended recovery income

- (5) The amount of the reduction under subsection (4)(a) or (b) for a replacement item and an affected class of affected property for which the person does not use the pool method is—
 - (a) zero, if the cost of the affected class equals or is less than the person’s total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class; or
 - (b) the amount calculated using the formula—

$$\text{limited replacement cost} \times \text{excess} \div \text{affected cost.}$$

Definition of items in formula

- (6) In the formula,—
 - (a) **limited replacement cost** is the lesser of—
 - (i) the amount by which the cost of the affected class exceeds the total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class;
 - (ii) the amount of the expenditure on the replacement item;
 - (b) **excess** is the excess recovery for the affected class;
 - (c) **affected cost** is the total cost for the person of the affected class.

Effect of acquiring item of replacement property if suspended recovery income from affected property in pool

- (7) If the person acquires a replacement item and links the replacement item with an affected class of affected property for which the person uses the pool method,—
 - (a) the amount of the person’s expenditure on the replacement item is treated as being reduced by the amount equal to the lesser of the amount

of expenditure on the replacement item and the amount of suspended recovery income for the affected property after the acquisition of other replacement property before the replacement item for the purposes of determining—

- (i) the adjusted tax value of the replacement item, if subparagraph (ii) or (iii) does not apply; or
 - (ii) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or
 - (iii) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item; and
- (b) the amount of the suspended recovery income for the affected class is reduced by the amount of the treated reduction under paragraph (a).

Requirements for replacement property

- (8) An item of replacement property for a person must—
- (a) be included in the same category under subsection (12)(b) as the affected class with which the person links the item if the affected class is described in subsection (12)(b)(i), (ii), (v), or (vi); and
 - (b) be located in New Zealand, if the item is a building or commercial fit-out.

Attribution of suspended recovery income to income year: other events

- (9) The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class—
- (a) at the end of the current year, if that year is the 2027–28 income year and neither of paragraphs (b) and (c) apply earlier; or
 - (b) when in the current year the person decides not to acquire more replacement property, if neither of paragraphs (a) and (c) apply earlier; or
 - (c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of paragraphs (a) and (b) apply earlier.

Notice of election for affected property

- (10) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must notify the Commissioner,—
- (a) for the earliest income year (the **estimate year**) in which the amount of the insurance or compensation for the affected property can be reasonably estimated, by the later of 30 April 2024 and the date on which the return of income is filed for the estimate year; and
 - (b) if the current year is after the estimate year,—

- (i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
- (ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

- (11) The Commissioner may allow the person to file the notice under subsection (10) at a later time if the Commissioner considers there are exceptional circumstances.

Contents of notice of election

- (12) A notice under subsection (10) must—
- (a) describe the items of affected property; and
 - (b) indicate in which of the following categories each item of affected property is included:
 - (i) a building not referred to in subparagraph (iii);
 - (ii) commercial fit-out not referred to in subparagraph (iv);
 - (iii) buildings for which the person uses the pool method;
 - (iv) commercial fit-out for which the person uses the pool method;
 - (v) depreciable property for which the person uses the pool method, other than a building or commercial fit-out;
 - (vi) depreciable property not referred to in subparagraphs (i) to (v); and
 - (c) give details of each item of replacement property acquired in the current year and the affected class to which the person is linking the item; and
 - (d) give the amount of the expenditure on the replacement item and the reduction under subsection (4) or (7) of that expenditure for the purposes of determining adjusted tax value or depreciation loss; and
 - (e) give the amount, for each affected class, of the suspended recovery income at the end of the current year.

Disposal of replacement property: reduction in cost treated as depreciation loss

- (13) For the purposes of section EE 48, the amount by which a person's expenditure on a replacement item is treated as being reduced under subsection (4) or (7) is an amount of depreciation loss for the item for which the person has been allowed a deduction.

Order of acquisition for items acquired at same time

- (14) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are

treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Relationship to subpart EE

- (15) This section overrides subpart EE (Depreciation).

Defined in this Act: acquire, adjusted tax value, amount, commercial fit-out, Commissioner, deduction, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, diminishing value method, dispose, income year, liquidation, New Zealand, North Island flooding events, notice, notify, pool, pool method, return of income, straight-line method

- (2) Subsection (1) applies for the 2022–23 and later income years.

73 New cross-heading and sections EZ 83 to EZ 87 inserted

- (1) After section EZ 82, insert:

Damage from North Island flooding events

EZ 83 Insurance for damage of property caused by North Island flooding events: treatment as disposal and reacquisition

When this section applies

- (1) This section applies for a person and an item of depreciable property when—
- (a) the item is damaged by a North Island flooding event; and
 - (b) the person is entitled to an amount of insurance or compensation for the damage to the item; and
 - (c) the person reasonably assesses that the item is uneconomic to repair; and
 - (d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).

Treatment as disposal and reacquisition of item

- (2) The person is treated as, on the date of the relevant North Island flooding event,—
- (a) disposing of the item for the amount of insurance or compensation; and
 - (b) reacquiring the item for zero consideration.

Relationship with section EE 52

- (3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received).

Defined in this Act: amount, depreciable property, dispose, North Island flooding events

EZ 84 Insurance for damage of property caused by North Island flooding events: limit on depreciation recovery income

When this section applies

- (1) This section applies for a person and an item of depreciable property when—
- (a) the item is damaged by a North Island flooding event; and

- (b) the person is entitled to an amount of insurance or compensation for the damage to the item; and
- (c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and
- (d) section EZ 83 does not apply for the item.

Limit on depreciation recovery income under section EE 52

- (2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in the income year an amount of depreciation recovery income equal to the lesser of—
- (a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section:
 - (b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item.

Relationship with section EE 52

- (3) This section overrides section EE 52.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year, North Island flooding events

EZ 85 Item treated as available for use if access restricted due to North Island flooding events

An item of depreciable property is treated for an income year as being available for use while access to the item is affected by a restriction imposed due to the effects of a North Island flooding event if—

- (a) the item was used or available for use immediately before the restriction was imposed; and
- (b) the item would be used or available for use in the absence of the restriction; and
- (c) the income year is the 2027–28 or an earlier income year.

Defined in this Act: depreciable property, income year, North Island flooding events

EZ 86 Insurance for North Island flooding event damage causing disposal: optional timing rule for income, deductions

When this section applies

- (1) This section applies for a person and an item of depreciable property when—
- (a) the item is damaged by a North Island flooding event; and
 - (b) the damage—

- (i) results in the item being affected by a disposal and reacquisition under section EZ 83; or
- (ii) meets the requirements of section EE 47(4) (Events for purposes of section EE 44); and
- (c) the person is entitled to an amount of insurance or compensation for the damage to the item; and
- (d) the person chooses to apply this section for all items of depreciable property meeting the requirements of paragraphs (a) to (c).

Attribution of income from insurance and disposal

- (2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person’s income from the insurance receipt and the consideration derived from the disposal of the item are attributed to the earlier of—
- (a) the 2027–28 income year:
 - (b) the first income year in which—
 - (i) the amount of the cost of disposing of the item (the **disposal cost**) is, or has been, incurred or able to be reasonably estimated; and
 - (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and
 - (iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated.

Attribution of deductions

- (3) If the disposal cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person’s deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of—
- (a) the 2027–28 income year:
 - (b) the first income year in which—
 - (i) the disposal cost is, or has been, incurred or able to be reasonably estimated; and
 - (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and
 - (iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated.

Relationship with other sections

- (4) This section overrides sections EE 1, EE 22, and EE 48 (which state when depreciation loss and depreciation recovery income arise) in relation to the timing of the person’s—

- (a) income from the insurance receipt and consideration from the disposal of the item:
- (b) deductions for the disposal cost and depreciation loss.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, dispose, income, income year, North Island flooding events

EZ 87 Insurance for repairs of North Island flooding event damage: optional timing rule for income, deductions

When this section applies

- (1) This section applies for a person and an item of depreciable property when—
 - (a) the item is damaged by a North Island flooding event; and
 - (b) the damage—
 - (i) does not result in the item being subject to a disposal and reacquisition under section EZ 83; and
 - (ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and
 - (c) the person is entitled to an amount of insurance or compensation for the damage to the item; and
 - (d) the person chooses to apply this section for all items of depreciable property meeting the requirements of paragraphs (a) to (c).

Attribution of income from insurance

- (2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person’s income from the insurance receipt is attributed to the earlier of—
 - (a) the 2027–28 income year:
 - (b) the first income year in which—
 - (i) the amount of expenditure for total repair of the damage (the **repair cost**) is, or has been, incurred or able to be reasonably estimated; and
 - (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated.

Attribution of deductions for repairs

- (3) If the repair cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person’s deductions for the repair cost are attributed to the earlier of—
 - (a) the 2027–28 income year:
 - (b) the first income year in which—

- (i) the repair cost is, or has been, incurred or able to be reasonably estimated; and
- (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated.

Relationship with other sections

- (4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person's—
- (a) income from the insurance receipt:
 - (b) deductions for the repair cost.

Defined in this Act: amount, deduction, depreciable property, dispose, income, income year, North Island flooding events

- (2) Subsection (1) applies for the 2022–23 and later income years.

74 Section FC 1 amended (Disposals to which this subpart applies)

- (1) In section FC 1(1)(e), after “gift”, insert “, other than a gift of trading stock or an interest in trading stock”.
- (2) In section FC 1, list of defined terms, insert “trading stock”.

75 Section FC 2 amended (Transfer at market value)

In section FC 2(3), replace “FC 6” with “FC 9C”.

76 Section FC 9B amended (Residential land: certain transferors)

- (1) In section FC 9B(b), replace “an original” with “a”.
- (2) In section FC 9B(e), replace “an original” with “a”.
- (3) In section FC 9B, list of defined terms, insert “settlor”.

77 New subpart FD inserted (Rollover relief from the bright-line test)

- (1) After subpart FC, insert:

Subpart FD—Rollover relief from the bright-line test

FD 1 Relief from bright-line test for transfers between associated persons

When this section applies

- (1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land) and Part D (Deductions) when residential land is transferred within the bright-line period—
 - (a) between persons associated under any of sections YB 2 to YB 13 at the date of transfer and for at least 2 years before that date; or
 - (b) to a trustee of a trust in which all beneficiaries, other than the transferor in their capacity as a beneficiary, are—

- (i) associated with the transferor at the date of transfer and for at least 2 years before that date, except for beneficiaries aged less than 2 years and persons who have become associated due to marriage or adoption who must be associated with the transferor since birth, marriage, or adoption, as applicable; or
- (ii) an association, club, institution, society, organisation, or trust not carried on for the private profit of any person whose funds are applied wholly or principally to any civic, community, charitable, philanthropic, religious, benevolent, or cultural purpose, whether in New Zealand or elsewhere.

Transfer at cost

- (2) The transfer is treated as a disposal and acquisition, at the date of transfer, for an amount that equals the cost of the residential land to the transferor.

Bright-line start date

- (3) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Use of property

- (4) For the purposes of determining whether section CB 16A (Main home exclusion for disposal within 2 years) applies, the transferor's use of the property is attributed to the transferee (for example, if the transferor used the property as a main home for 1 year, this is attributed to the transferee).

When this section does not apply

- (5) This section does not apply to a transfer of residential land if the section has already been applied to a transfer (the **first transfer**) of the residential land and 2 years have not passed from the date of the first transfer.

Defined in this Act: amount, associated, bright-line end date, bright-line period, bright-line start date, charitable purpose, main home, New Zealand, residential land, year

FD 2 Relief from bright-line test for Māori rollover trusts

When this section applies

- (1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land) and Part D (Deductions) when residential land is transferred within the bright-line period as described in the following table:

Row	Transfer	Conditions to be satisfied
1	Transfers into a Māori rollover trust	The transferor is a settlor and beneficiary of a Māori rollover trust; and The transferee is a trustee of the Māori rollover trust.
2	Transfers between Māori rollover trusts	The transferor is a trustee of a Māori rollover trust; and

		The transferee is a trustee of another Māori rollover trust; and The beneficiaries for both trusts are the same.
3	Transfers out of a Māori rollover trust	The transferor is the trustee of a Māori rollover trust; and The transferee is a settlor of the Māori rollover trust; and The settlors— a) originally transferred the land to the trustee; and b) acquired proportionally the same amount of land back from the trustee as they had originally transferred or, where one of the settlors has died, the settlors receive at least the same proportion of the land back from the trustee as they had originally transferred; and c) are beneficiaries of the trust.

How to use this table: Read the columns from left to right according to the row that fits the situation. If the parties to the transfer meet the relevant conditions, then this section applies to them.

Other capacities

- (2) For the purposes of subsection (1), the transferors and transferees may have different capacities in relation to the different conditions in that subsection (for example, a transferee may be a settlor in their personal capacity and a beneficiary as an owner of a look-through company).

Transfer at greater of cost or consideration derived

- (3) The transfer is treated as a disposal and acquisition, at the date of transfer, for an amount that equals the greater of the cost of the residential land to the transferor or the consideration paid by the transferee.

Bright-line start date

- (4) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Meaning of Māori rollover trust

- (5) **Māori rollover trust** means, at the time of a relevant transfer to or from a relevant trust, a trust in which—
- (a) a trustee of the trust is a Maori authority or eligible to elect to be a Maori authority; and
 - (b) all beneficiaries are—
 - (i) members of the same iwi or hapu;
 - (ii) descendants of the same tipuna; and
 - (c) the land is subject to Te Ture Whenua Maori Act 1993.

Defined in this Act: bright-line period, bright-line start date, look-through company, Maori authority, Māori rollover trust, residential land, settlor, trustee

FD 3 Certain transfers of residential land included in settlement of claim under Treaty of Waitangi*When this section applies*

- (1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land) and Part D (Deductions) to a transfer of residential land within the bright-line period that is—
- (a) subject to Te Ture Whenua Maori Act 1993; and
 - (b) made as part of the settlement of a claim under the Treaty of Waitangi; and
 - (c) transferred to a trustee of a trust that is a Maori authority or is eligible to be a Maori authority under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?).

Transfer by transferor

- (2) The transferor is treated as transferring the land at the greater of the cost of the land to them or the consideration they derive from the disposal.

Transfer to transferee

- (3) The transferee is treated as acquiring the land at its market value at the time the land was transferred from the Crown.

Bright-line start date

- (4) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Defined in this Act: bright-line period, bright-line start date, Maori authority, residential land, trust, trustee

- (2) Subsection (1) applies to a person's disposal of residential land if the bright-line end date for the land, as defined in the Income Tax Act 2007, is on or after 1 July 2024.

78 New cross-heading and section FZ 7B inserted

- (1) After section FZ 7, insert:

Group property affected by North Island flooding events**FZ 7B Valuation of group assets: insurance proceeds from North Island flooding events***When this section applies*

- (1) This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person if—
- (a) an asset of the person's New Zealand group is damaged as a result of a North Island flooding event; and

- (b) the asset is impaired or derecognised under generally accepted accounting practice as a result of the damage; and
- (c) insurance for the damage is recognised at a later date under generally accepted accounting practice.

Optional treatment of insurance

- (2) The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person's New Zealand group during the period—
 - (a) beginning with the impairment or derecognition of the asset; and
 - (b) ending before the earlier of—
 - (i) the recognition of the amount of insurance:
 - (ii) the beginning of the 2027–28 income year.

Corresponding treatment for worldwide group

- (3) If a person includes an amount under subsection (2) in the value of the total group assets of the person's New Zealand group for a period, the person must include the amount in the value of the total group assets of the person's worldwide group for the period.

Notice to Commissioner

- (4) A person choosing to apply subsection (2) for an income year must give notice to the Commissioner of the following:
 - (a) that the person has applied this section for the income year; and
 - (b) a reasonable estimate of the amount of income that would arise under section CH 9 (Interest apportionment: excess debt entity) for the income year in the absence of this section; and
 - (c) the amount of income that arises under section CH 9 for the income year after the application of this section; and
 - (d) any further information required by the Commissioner.

Form and timing of notice

- (5) The information required by subsection (4) must be given—
 - (a) in the form and by the means prescribed by the Commissioner; and
 - (b) no later than the day by which the person is required to make a return of income for the corresponding tax year, or at a later time if the Commissioner considers there are exceptional circumstances.

Defined in this Act: amount, Commissioner, generally accepted accounting practice, income, income year, North Island flooding events, notice, return of income, tax year

- (2) Subsection (1) applies for the 2022–23 and later income years.

79 Section FZ 9 and cross-heading repealed

Repeal section FZ 9 and the cross-heading above section FZ 9.

80 Section GB 53B and cross-heading repealed

Repeal section GB 53B and the cross-heading above section GB 53B.

81 Section GB 53C repealed (On-lending at lower rate)

Repeal section GB 53C.

82 Section GC 1 replaced (Disposals of trading stock at below market value)

(1) Replace section GC 1 with:

GC 1 Certain disposals of trading stock at below market value

When this section applies

(1) This section applies when—

(a) a person (**person A**) disposes of trading stock for—

(i) no consideration; or

(ii) an amount that is less than the market value of the trading stock at the time of the disposal; and

(b) 1 or more of the following apply:

(i) the disposal is effected by person A taking the trading stock for their own use or consumption:

(ii) the disposal is not made by person A in the course of carrying on a business for the purpose of deriving their assessable income, or their excluded income, or a combination of their assessable income and excluded income:

(iii) the disposal is to an associated person.

Market value consideration

(2) Person A is treated as deriving an amount equal to the market value of the trading stock at the time of the disposal.

Market value expenditure

(3) If person A disposes of the trading stock to another person, an amount equal to the market value of the trading stock at the time of the disposal is treated as expenditure incurred by the other person in acquiring the trading stock.

Shares in trading stock

(4) In this section, **trading stock** includes an interest in trading stock.

Exclusions

(5) This section does not apply to a disposal of trading stock—

(a) to a donee organisation:

- (b) under a relationship agreement:
- (c) by a person to another person, who is not associated with them, for use by the other person in a farming, agricultural, or fishing business that is affected by a self-assessed adverse event:
- (d) under a share-lending arrangement, by a share user to a share supplier or by a share supplier to a share user:
- (e) to which section GC 20(2) or GC 21(7) applies.

Defined in this Act: amount, assessable income, associated person, business, donee organisation, excluded income, relationship agreement, self-assessed adverse event, share-lending arrangement, share supplier, share user, trading stock

- (2) Subsection (1) applies for disposals of trading stock occurring on or after 1 April 2024.

83 Section GC 20 amended (Effect of purchase price allocation agreement)

- (1) After section GC 20(2), insert:

Exception: trading stock disposed of at below market value to associate

- (2B) Subsection (2) does not apply to a class of purchased property described in subsection (1)(a)(i) or (ii) if—
 - (a) person A and person B are associated persons at the time of the disposal; and
 - (b) the allocated amount for the class of purchased property is less than the total market value of the items of purchased property in the class of purchased property at the time of the disposal.

- (2) In section GC 20, list of defined terms, insert “associated person”.

84 Section GC 21 amended (Purchase price allocation required: no agreement)

- (1) After section GC 21(11), insert:

Exception: trading stock disposed of at below market value to associate

- (11B) Subsection (7) does not apply to a class of purchased property described in subsection (1)(a)(i) or (ii) if—
 - (a) person A and person B are associated persons at the time of the disposal; and
 - (b) the relevant allocated amount provided by subsections (3) to (6) for the class of purchased property is less than the total market value of the items of purchased property in the class of purchased property at the time of the disposal.

- (2) In section GC 21, list of defined terms, insert “associated person”.

85 Sections GZ 3 to GZ 5 repealed

Repeal sections GZ 3 to GZ 5.

86 Section HB 13 amended (LTC elections)

- (1) In section HB 13(3)(b), replace “Commissioner before” with “Commissioner on or before”.
- (2) Subsection (1) applies for the 2011–12 and later income years.

87 Section HC 4 amended (Corpus of trust)

- (1) Replace section HC 4(3), other than the heading, with:
- (3) A property settlement by a trustee of another trust is excluded from corpus to the extent to which the property—
 - (a) is not first distributed to a beneficiary, resident in New Zealand, of the other trust; and
 - (b) if it were first distributed to a beneficiary, resident in New Zealand, of the other trust, the property would be beneficiary income or a taxable distribution to that beneficiary.
- (2) Subsection (1) applies for the 2024–25 and later income years.

88 Section HC 7 amended (Trustee income)

- (1) Replace section HC 7(2), other than the heading, with:
- (2) An amount of beneficiary income to which section HC 35 applies that is derived in an income year by a person who is a minor is—
 - (a) treated as trustee income for the purposes of who pays the tax and who provides the return of income; and
 - (b) subject to the basic rate of income tax set out in schedule 1, part A, clause 3.
- (2) After section HC 7(2), insert:
Close companies' beneficiary income
- (2B) An amount of beneficiary income to which section HC 38 applies is—
 - (a) treated as trustee income for the purposes of who pays the tax and who provides the return of income; and
 - (b) subject to the basic rate of income tax set out in schedule 1, part A, clause 3.
- (3) In section HC 7, list of defined terms, insert “tax”.
- (4) Subsections (1) and (2) apply for the 2024–25 and later income years.

89 New section HC 8B inserted (Trustee income in income year of person's death and following 3 income years)

- (1) After section HC 8, insert:

HC 8B Trustee income in income year of person’s death and following 3 income years

When this section applies

- (1) This section applies to a trustee of an estate of a deceased person for the income year in which the person died and the subsequent 3 income years.

Basic rate of tax for trustee

- (2) For an income year in which the trustee derives trustee income, the basic rate of income tax for the trustee on each dollar of the trustee’s taxable income is set out in schedule 1, part A, clause 6B (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: income tax, income year, taxable income, trustee, trustee income

- (2) Subsection (1) applies for the 2024–25 and later income years.

90 Section HC 13 repealed (Charitable trusts)

Repeal section HC 13.

91 Section HC 17 amended (Amounts derived as beneficiary income)

- (1) Replace the heading to section HC 17(1) with:

Beneficiaries other than minors or close companies

- (2) In section HC 17(1), after “section HC 35”, insert “or HC 38”.
(3) After section HC 17(2), insert:

Beneficiaries that are close companies

- (3) Subsection (1) does not apply to beneficiary income derived by a close company to which section HC 38 applies. The beneficiary income is excluded income of the company under section CX 58B (Amounts derived by certain close companies from trusts) and treated as trustee income under section HC 38.

- (4) In section HC 17, list of defined terms, insert “close company”.
(5) Subsections (1), (2), and (3) apply for the 2024–25 and later income years.

92 Section HC 24 amended (Trustees’ obligations)

- (1) After section HC 24(3), insert:

Beneficiary income of certain close companies

- (3B) Section HC 38 applies to treat beneficiary income derived by a close company that meets the requirements of the section as if it were trustee income.
(2) In section HC 24, list of defined terms, insert “close company”.
(3) Subsection (1) applies for the 2024–25 and later income years.

93 Section HC 26 amended (Foreign-sourced amounts: resident trustees)

In section HC 26(1), replace “resident trustee of a foreign trust” with “New Zealand resident trustee”.

94 Section HC 29 amended (Settlors’ liability to income tax)

- (1) In section HC 29(4)(a), replace “charitable trust” with “trust that is a tax charity”.
- (2) In section HC 29, list of defined terms, delete “charitable trust” and insert “tax charity”.

95 Section HC 31 amended (When existing trusts come into tax base)

- (1) In section HC 31(1B), replace “charitable trust” with “trust that is a tax charity”.
- (2) In section HC 31, list of defined terms, delete “charitable trust” and insert “tax charity”.

96 Section HC 35 amended (Beneficiary income of minors)

- (1) In section HC 35(2)(a), replace “trusts:” with “trusts); and”.
- (2) In section HC 35(2), replace paragraph (b) with:
 - (b) treated as trustee income for the purposes of who pays the relevant tax and who provides the return of income; and
 - (c) subject to the basic rate of income tax set out in schedule 1, part A, clause 3.
- (3) Subsections (1) and (2) apply for the 2024–25 and later income years.

97 New sections HC 38 to HC 40 inserted

- (1) After section HC 37, insert:

HC 38 Beneficiary income of certain close companies

When this section applies

- (1) This section applies when a close company derives an amount of beneficiary income from a trust (**trust A**) in an income year and a voting interest or market value interest in the close company is held, directly or indirectly, by 1 or more of the following:
 - (a) a settlor of trust A;
 - (b) the trustees of trust A;
 - (c) a person for whom a settlor of trust A has natural love and affection;
 - (d) the trustees of a trust (**trust B**), if a settlor of trust A has natural love and affection for a settlor or beneficiary of trust B.

When this section does not apply

- (2) This section does not apply to a close company that is a—
- (a) Maori authority;
 - (b) tax charity;
 - (c) securitisation trust beneficiary.

Treatment of amount derived

- (3) The amount is—
- (a) excluded income of the close company under section CX 58B (Amounts derived by certain close companies from trusts); and
 - (b) treated as trustee income for the purposes of who pays the relevant tax and who provides the return of income; and
 - (c) subject to the basic rate of income tax set out in schedule 1, part A, clause 3.

Relationship with other provisions

- (4) This section—
- (a) overrides sections HC 5, HC 22, HC 23, and HC 32; and
 - (b) is overridden by section CW 10 (Dividend within New Zealand wholly-owned group).

Defined in this Act: amount, beneficiary income, close company, excluded income, income year, Maori authority, market value interest, pay, return of income, securitisation trust beneficiary, settlor, tax, tax charity, trustee, trustee income, voting interest

HC 39 Trustee income: disabled beneficiary trusts*Basic rate of tax for trustee of disabled beneficiary trust*

- (1) When a trustee of a disabled beneficiary trust derives trustee income in an income year, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is set out in schedule 1, part A, clause 6B (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Definition of disabled beneficiary trust

- (2) A **disabled beneficiary trust** is a trust—
- (a) with 1 or more beneficiaries who are all disabled beneficiaries; and
 - (b) from which no person other than a disabled beneficiary may ever receive distributions, except on the dissolution of the trust if no disabled beneficiaries are alive.

Definition of disabled beneficiary

- (3) A **disabled beneficiary**, for an income year, is a person who—
- (a) derives for the income year, under the Social Security Act 2018, 1 or more of the following:

- (i) a supported living payment on the ground of restricted work capacity:
- (ii) a child disability allowance:
- (iii) jobseeker support on the ground of health condition, injury, or disability:
- (iv) a disability allowance; or
- (b) satisfied 1 or more of paragraph (a)(i), (iii), or (iv) for the income year in which the person turned 65 years of age or the income year before that income year.

Defined in this Act: disabled beneficiary, disabled beneficiary trust, distribution, income year, taxable income, trustee, trustee income

HC 40 De minimis trust

A trust is a **de minimis trust** in an income year if the net income of the trustee for that income year, excluding any income treated as trustee income under section HC 35 or HC 38, is \$10,000 or less.

Defined in this Act: de minimis trust, distribution, income, income year, net income, trustee, trustee income

- (2) Subsection (1) applies for the 2024–25 and later income years.

98 Section HD 12 amended (Trusts)

- (1) In section HD 12(2), replace “charitable trust” with “trust that is a tax charity”.
- (2) In section HD 12, list of defined terms, delete “charitable trust” and insert “tax charity”.

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

In section HF 1(2)(f), replace “clause 6” with “clause 7”.

100 Section HG 4 amended (Disposal upon final dissolution)

- (1) In section HG 4(4), replace “partners” with “partner’s”.
- (2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

101 Section HM 60 amended (Notified investor rates)

- (1) In section HM 60(1), delete “Section 28B of the Tax Administration Act 1994 sets out the requirements for the notice.”
- (2) In section HM 60(4), delete “other than an investor who is a natural person”.

102 New subpart HP inserted (Taxation of members of certain multinational groups)

- (1) After subpart HM, insert:

Subpart HP—Taxation of members of certain multinational groups

HP 1 Liability for multinational top-up tax

Payment of tax

- (1) A constituent entity (**entity A**) that is required to pay an amount of tax for a fiscal year under the applied global anti-base erosion rules must pay the amount to the Commissioner.

Joint and several liability

- (2) Each constituent entity that is located in New Zealand under the applied global anti-base erosion rules and that is a member of the same MNE group as entity A is jointly and severally liable with entity A for the amount of tax for the fiscal year payable by entity A under the applied global anti-base erosion rules.

Member leaving MNE group

- (3) If a constituent entity (**entity B**) that is a member of the same MNE group as entity A leaves the MNE group, entity B is relieved from liability under subsection (2) for a fiscal year if—
- (a) the assessment of entity A's multinational top-up tax liability for the fiscal year is made after entity B leaves the MNE group; and
 - (b) the amount assessed is more than an earlier assessment of entity A's multinational top-up tax liability for the fiscal year; and
 - (c) the Commissioner considers that the removal of the liability will not significantly prejudice the recovery, or likely recovery, of the amount of multinational top-up tax assessed for the fiscal year; and
 - (d) the Commissioner notifies entity A and entity B that the requirements of paragraph (c) are met.

Defined in this Act: amount, amount of tax, applied global anti-base erosion rules, assessment, Commissioner, multinational top-up tax, New Zealand, notify, pay

HP 2 Payment date for multinational top-up tax

A constituent entity must pay its multinational top-up tax for a fiscal year to the Commissioner by,—

- (a) for the first fiscal year for which the constituent entity is required to provide a return under section 78J of the Tax Administration Act 1994, the date that is 20 months after the end of the fiscal year;
- (b) otherwise, the date that is 16 months after the end of the fiscal year.

Defined in this Act: Commissioner, multinational top-up tax, pay

HP 3 Application of global anti-base erosion model rules

What this section does

- (1) This section provides for the application of the global anti-base erosion model rules in determining the obligations of a person under the Inland Revenue Acts.

Modifications to global anti-base erosion model rules

- (2) For the purposes of determining the obligations of a person under the Inland Revenue Acts, the global anti-base erosion model rules are modified in the ways specified in schedule 25B (Items modifying global anti-base erosion model rules).

Application of global anti-base erosion model rules

- (3) Subject to any regulations made under section 226G of the Tax Administration Act 1994, the global anti-base erosion model rules apply for a fiscal year—
- (a) as modified by subsection (2); and
 - (b) subject to the modifications made by subsection (2), in accordance with—
 - (i) the most recent commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the **Inclusive Framework**) and published by the OECD before the start of the fiscal year; and
 - (ii) the most recent guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD before the start of the fiscal year.

Commentary or guidance prevails

- (4) For the purposes of subsection (3)(b), if there is a conflict between the global anti-base erosion model rules and commentary or guidance described in that paragraph, the commentary or guidance prevails.

Relationship between provisions

- (5) Subsection (4) does not limit or affect any of the modifications to the global anti-base erosion model rules made by subsection (2).

Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts

HP 4 Meaning of terms defined in global anti-base erosion model rules

In the application of this subpart, sections 78H to 78J and 92BA of the Tax Administration Act 1994, and the global anti-base erosion model rules for a fiscal year, a term defined in the global anti-base erosion model rules and used in the Inland Revenue Acts has the meaning that it has at the start of the fiscal year under the global anti-base erosion model rules as modified by section HP 3(2).

Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts

- (2) Subsection (1) applies for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2025.

103 Section HR 12 amended (Non-exempt charities: treatment of tax-exempt accumulations)

- (1) Replace section HR 12(3)(a) with:
- (a) assets that are disposed of or transferred for charitable purposes within 1 year of the end date, together with any rights and obligations, to—
- (i) a tax charity, other than a tax charity as defined in paragraph (c) of the definition of tax charity:
- (ii) a New Zealand resident person, other than a natural person, that derives exempt income under any of sections CW 38 to CW 52, CW 55BA, or CW 64 (which relate to exempt income of certain entities):
- (2) Subsection (1) applies to a person that is removed from the register of charitable entities on or after 1 April 2024.

104 New section LE 4B inserted (Trustees for certain close companies)

- (1) After section LE 4, insert:

LE 4B Trustees for certain close companies

When this section applies

- (1) This section applies when a person who has a tax credit under section LE 1 (the **tax credit**) is the trustee of a trust and a close company derives beneficiary income from the trust.

Trustee treated as beneficiary

- (2) To the extent to which section HC 38 (Beneficiary income of certain close companies) applies, the person is treated as deriving the company's beneficiary income as a beneficiary.

Defined in this Act: agent, beneficiary income, close company, tax credit, trustee

- (2) Subsection (1) applies for the 2024–25 and later income years.

105 Section LJ 3 replaced and amended (Meaning of foreign income tax)

- (1) Replace section LJ 3 with:

LJ 3 Meaning of foreign income tax

For the purposes of this Part, **foreign income tax**—

- (a) means—
- (i) an amount of a tax of another country meeting the requirements of section YA 2(5) (Meaning of income tax varied):
- (ii) in relation to a double tax agreement providing relief from tax or double taxation, an amount of tax to which the double tax agreement applies; and

- (b) includes an amount of a tax of another country that is a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of the global anti-base erosion model rules; and
- (c) includes an amount of a tax of another country that is of substantially the same nature as the tax that will be imposed by this Act—
 - (i) when all the provisions of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (the **amendment Act**) listed in section 2(31) and (33) of the amendment Act have come into force; and
 - (ii) because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules made by section 123(3) of the amendment Act; and
- (d) does not include an amount of a tax of another country that is based on—
 - (i) Articles 2.1 to 2.3 of the global anti-base erosion model rules; or
 - (ii) Articles 2.4 to 2.6 of those model rules.

Defined in this Act: amount, amount of tax, double tax agreement, global anti-base erosion model rules, tax

- (2) In section LJ 3 (as replaced by subsection (1)),—
 - (a) replace paragraphs (b) and (c) with:
 - (b) includes an amount of a tax of another country that is either or both of the following:
 - (i) a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of the global anti-base erosion model rules:
 - (ii) of substantially the same nature as multinational top-up tax payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules); and
 - (b) list of defined terms, insert “multinational top-up tax” and “pay”.

106 Section MB 7 amended (Family scheme income of settlor of trust)

- (1) In section MB 7(3), formula, replace “trustee income” with “trustee’s adjusted net income”.
- (2) In section MB 7(4)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”.
- (3) In section MB 7(7)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”.
- (4) In section MB 7(8)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”.

(5) In section MB 7, list of defined terms, delete “trustee income”.

107 Section MK 2 amended (Eligibility requirements)

In section MK 2, list of defined terms, delete “resident in New Zealand”.

108 New section OB 7BB inserted (ICA payment of multinational top-up tax)

After section OB 7B, insert:

OB 7BB ICA payment of multinational top-up tax

Credit

(1) An ICA company has an imputation credit for an amount of multinational top-up tax paid under section HP 1 (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 5BB (payment of multinational top-up tax).

Credit date

(3) The credit date is the day the multinational top-up tax is paid.

Defined in this Act: amount, global anti-base erosion model rules, ICA company, imputation credit, multinational top-up tax, pay

109 Table O1 amended (Imputation credits)

In table O1, after row 5B, insert:

5BB	Payment of multinational top-up tax	day of payment	section OB 7BB
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110 New section OP 11BA inserted (Consolidated ICA payment of multinational top-up tax)

After section OP 11, insert:

OP 11BA Consolidated ICA payment of multinational top-up tax

Credit

(1) A consolidated imputation group has an imputation credit for an amount of multinational top-up tax paid under section HP 1 (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules).

Table reference

- (2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 6BA (multinational top-up tax paid for group tax liability).

Credit date

- (3) The credit date is the day the multinational top-up tax is paid.

Defined in this Act: amount, consolidated imputation group, global anti-base erosion model rules, imputation credit, multinational top-up tax, pay

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

In table O19, after row 6, insert:

6BA	Multinational top-up tax paid for group tax liability	day of payment	section OP 11BA
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112 Section RC 6 amended (Standard method)

In section RC 6(5), replace “preceding tax year” with “relevant tax year”.

113 Section RC 38 amended (Crediting income tax with early-payment discount)

- (1) Replace section RC 38(4)(a) with:

(a) the rate that is 2% greater than the highest Commissioner’s paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994 that applied at any time during the tax year if no rate is set under paragraph (b):

- (2) Replace section RC 38(4)(a) (as inserted by subsection (1)) with:

(a) the rate that is 2% greater than the Commissioner’s paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994 that applied at the end of the preceding tax year if no rate is set under paragraph (b):

- (3) Subsection (1) applies for the 2022–23 and later income years.

- (4) Subsection (2) applies for the 2024–25 and later income years.

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

In section RD 10(1), replace “RD 20” with “RD 20C”.

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

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

End of employment

- (1BA) Despite subsection (1), if the extra pay arises from the ending of the employee's employment, the amount of tax for the extra pay is based on the sum of—
- (a) the amount of the extra pay; and
 - (b) the annualised value of the PAYE income payments for the last 2 pay periods before the PAYE income payment for the extra pay.
- (2) In section RD 17, list of defined terms, insert “pay period”.

116 New sections RD 20B and RD 20C inserted

- (1) After section RD 20, insert:

RD 20B Payments of accident compensation for period of more than 1 year*What this section applies to*

- (1) This section applies to a person for a payment (the **multi-year compensation payment**) that is made in a lump sum and relates to a period of more than 1 income year for the person and is—
- (a) an accident compensation earnings-related payment, except to the extent to which the payment is the conversion of weekly compensation to an aggregated payment under schedule 1, part 4, clause 67 of the Accident Compensation Act 2001; or
 - (b) a personal service rehabilitation payment, except to the extent to which the payment is a reimbursement payment to which section CW 35 (Personal service rehabilitation payments) applies.

Tax rate for payment and income year

- (2) The tax rate given by subsection (3) applies to the multi-year compensation payment for the income year in which the person derives the payment.

Tax rate

- (3) The tax rate referred to in subsection (2) is—
- (a) 10.5%, if the rate given by the formula in subsection (4) (the **average basic tax rate**) is less than 10.5% and paragraph (c) does not apply; or
 - (b) the person's average basic tax rate, if neither of paragraphs (a) and (c) apply; or
 - (c) the person's basic tax rate for the income year in which the person derives the multi-year compensation payment, if that basic tax rate is less than the average basic tax rate.

Formula for average basic tax rate

- (4) The person's average basic tax rate for this section is calculated over the period of the 4 income years (the **rate averaging period**) ending before the income year in which the person derives the multi-year compensation payment using the formula—

total basic rates ÷ number of income years.

Definition of items in formula

- (5) In the formula in subsection (4),—
- (a) **total basic rates** is the sum of the person’s basic tax rate calculated under schedule 1, part A, clause 1 for each of the income years in the rate averaging period for which that rate is known by the Commissioner:
- (b) **number of income years** is the number of income years within the rate averaging period for which the person’s basic tax rate is known by the Commissioner and included in the total basic rates.

Withholding from payment

- (6) For the purposes of section RA 5 (Tax obligations for employment-related taxes), if the multi-year compensation payment is an accident compensation earnings-related payment, the person making the payment must withhold an amount of tax from the payment at the rate given by subsection (7).

Rate of withholding

- (7) The rate referred to in subsection (6) is,—
- (a) if the person’s average basic tax rate is less than 10.5%, 10.5%; or
- (b) in any other case, the person’s average basic tax rate.

Defined in this Act: accident compensation earnings-related payment, amount, amount of tax, basic tax rate, Commissioner, income year, pay, personal service rehabilitation payment, reimbursement payment

RD 20C Payments of recalculated main benefit

What this section applies to

- (1) This section applies to a person for a payment (the **recalculated main benefit payment**) that is made in a lump sum in an income year and arises from a recalculation of the amount of main benefit payable to the person for 1 or more earlier income years.

Tax rate for payment

- (2) The rate of income tax given by subsection (3) applies to the recalculated main benefit payment for the income year in which the person derives the payment.

Formula for tax rate

- (3) The rate of income tax referred to in subsection (2) is the rate calculated using the formula—

tax deduction ÷ (received amount + tax deduction).

Definition of items in formula

- (4) In the formula in subsection (3),—
- (a) **tax deduction** is the amount paid to the Commissioner by the department of State responsible for the administration of the Social Security

Act 2018 (the **MSD**) as the amount for income tax payable on the recalculated main benefit payment:

- (b) **received amount** is the amount paid to the person by the MSD as the amount of the recalculated main benefit payment after the withholding of income tax.

Defined in this Act: amount, Commissioner, income tax, income year, main benefit, pay

- (2) Subsection (1) applies for accident compensation earnings-related payments, personal service rehabilitation payments, and payments of main benefit made on or after 1 April 2024.

117 Section RE 14C amended (Non-cash dividends distributed through intermediaries)

- (1) In section RE 14C, words before the paragraphs, replace “RE 5” with “RE 4”.
- (2) In section RE 14C, paragraph (a)(i), replace “derives” with “receives”.
- (3) In section RE 14C, paragraph (a)(ii), insert “attributes or” before “distributes” and replace “company” with “foreign company”.
- (4) In section RE 14C, paragraph (a)(iii), insert “attribution or” before “distribution”.
- (5) In section RE 14C, paragraph (b), insert “attribution or” before “distribution” and replace “derived” with “received”.
- (6) Subsections (1) to (5) apply for the 2017–18 and later income years.

118 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) The definitions listed in schedule 1 are repealed.
- (3) In the definition of **accommodation**, paragraph (b), replace “CZ 29, and CZ 30” with “CZ 23B, and CZ 29 to CZ 30”.
- (4) Insert, in appropriate alphabetical order:
- adjusted value** is defined in section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section
- (5) Insert, in appropriate alphabetical order:
- affected area** means any of the following regions or districts:
- (a) the regions of Northland, Auckland, Waikato, Bay of Plenty, Gisborne, and Hawke’s Bay:
- (b) the districts of Tararua, Masterton, Carterton, South Wairarapa, Manawatū, and Rangitikei
- (6) In the definition of **amount**, repeal paragraph (b)(i).
- (7) In the definition of **ancillary tax**, after paragraph (h), insert:

- (hb) multinational top-up tax:
- (8) Insert, in appropriate alphabetical order:
applied global anti-base erosion rules means the global anti-base erosion model rules as applied by section HP 3 (Application of global anti-base erosion model rules)
- (9) Insert, in appropriate alphabetical order:
bright-line end date is defined in section CB 6A (Disposal within 2 years: bright-line test for residential land)
- (10) Replace the definition of **bright-line period** with:
bright-line period means, for a person and residential land, the period beginning with the bright-line start date for the land and ending with the bright-line end date for the land
- (11) Insert, in appropriate alphabetical order:
bright-line start date is defined in section CB 6A (Disposal within 2 years: bright-line test for residential land)
- (12) Insert, in appropriate alphabetical order:
building, in subpart EE, includes part of a building, to the extent to which it is a unit in a unit title development under the Unit Titles Act 2010, but, in subparts EE and EZ, does not include a grandparented structure
- (13) Replace the definition of **building** with:
building, in subpart EE, includes part of a building, to the extent to which it is a unit in a unit title development under the Unit Titles Act 2010, but, in subparts EE and EZ, does not include—
- (a) a grandparented structure:
 - (b) commercial fit-out, except for commercial fit-out acquired as part of a building in the 2010–11 or an earlier income year for which the person has never had any deductions under any provisions other than sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and DB 65B (Allowance for embedded fit-out of certain commercial buildings)
- (14) In the definition of **business premises**, replace “subparts DD and DH” with “subpart DD”.
- (15) Repeal the definition of **charitable trust**.
- (16) Insert, in appropriate alphabetical order:
co-owner is defined in section CW 3C (Certain partitions or subdivisions of land) for the purposes of that section and section CB 15E (Disposals of land subject to section CW 3C)

- (17) In the definition of **council-controlled organisation**, replace paragraph (a)(vii) and (viii) with:
- (vii) New Zealand Local Government Insurance Corporation and any subsidiaries it has; but
- (18) Insert, in appropriate alphabetical order:
- de minimis trust** is defined in section HC 40 (De minimis trust)
- (19) Replace the definition of **diminished value** with:
- diminished value** is defined in section DO 9B (Meaning of diminished value) for the purposes of section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) and sections DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DP 4, DZ 17, DZ 18, and schedule 20 (which relate to improvements to land and aquacultural business)
- (20) Insert, in appropriate alphabetical order:
- diminishing value equivalent method** is defined in section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section
- (21) Insert, in appropriate alphabetical order:
- disabled beneficiary** is defined in section HC 39(3) (Trustee income: disabled beneficiary trusts)
- (22) Insert, in appropriate alphabetical order:
- disabled beneficiary trust** is defined in section HC 39(2) (Trustee income: disabled beneficiary trusts)
- (23) In the definition of **dwelling**, in paragraph (ab), replace “, commercial fit-out, and residential building” with “and commercial fit-out”.
- (24) Insert, in appropriate alphabetical order:
- exempt housing provider** is defined in section DH 5 (Key terms)
- (25) Insert, in appropriate alphabetical order:
- Fonterra** is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section
- (26) Insert, in appropriate alphabetical order:
- global anti-base erosion model rules** means the model rules—
- (a) set out in *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, which is a document—
- (i) approved by the OECD/G20 Inclusive Framework on BEPS on 14 December 2021; and
- (ii) published by the OECD; and

- (b) as amended from time to time, except any amendments to the definition of **minimum rate** in Article 10.1.1 of the model rules referred to in paragraph (a)
- (27) Replace the definition of **grandparented structure** with:
- grandparented structure** means, for a person, any item on the following list if the person acquired the item, or entered into a binding contract for the purchase or construction of the item, on or before 30 July 2009:
- (a) barns, including barns (drying):
 - (b) carparks (buildings):
 - (c) chemical works:
 - (d) fertiliser works:
 - (e) powder drying buildings:
 - (f) site huts
- (28) Insert, in appropriate alphabetical order:
- legacy superannuation fund** means a scheme that previously qualified as a widely-held superannuation fund and is either—
- (a) a restricted workplace savings scheme as designated by the Financial Markets Conduct (Designation of Restricted Schemes) Order 2016; or
 - (b) treated as a registered scheme that is a superannuation fund by section 59A(1)(b) of the National Provident Fund Restructuring Act 1990
- (29) Insert, in appropriate alphabetical order:
- lending person** means a person—
- (a) whose main business activity is lending funds or leasing personal property to persons who are not associated with the person; or
 - (b) who is a member of a group whose main business activity is lending funds or leasing personal property to persons who are not associated with any member of the group
- (30) In the definition of **main home**, in paragraph (a), insert “mainly” after “is”.
- (31) Insert, in appropriate alphabetical order:
- Māori rollover trust** is defined in section FD 2 for the purposes of that section
- (32) Insert, in appropriate alphabetical order:
- multinational top-up tax** means tax payable under subpart HP (Taxation of members of certain multinational groups)
- (33) Repeal the definition of **non-residential building**.
- (34) Insert, in appropriate alphabetical order:

North Island adverse weather event means any of the following weather events:

- (a) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:
- (b) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023:
- (c) severe weather in the Nelson-Tasman region that resulted in a state of emergency being declared under the Civil Defence Emergency Management Act 2002, beginning on 17 August 2022 and ending on 31 August 2022

- (35) Replace the definition of **North Island flooding events** with:

North Island flooding events—

- (a) means flooding and other damage that occurred in an affected area caused by any of the following weather events:
 - (i) Cyclone Hale, which crossed the North Island of New Zealand during the period commencing on 8 January 2023 and ending on 12 January 2023:
 - (ii) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:
 - (iii) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023; and
- (b) includes circumstances where damage caused by any of the events listed in paragraph (a) is exacerbated by a subsequent weather event

- (36) Insert, in appropriate alphabetical order:

projected qualifying non-transaction shareholding is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

- (37) Replace the definition of **projected transactions shareholding** with:

projected transactions shareholding—

- (a) is defined in section CD 34B(7) (Distributions to members of co-operative companies) for the purposes of that section:
- (b) is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

- (38) Insert, in appropriate alphabetical order:

qualifying non-transaction shares is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

(39) In the definition of **reimbursement payment**, replace “DF 4 and LB 7” with “DF 4, LB 7, and RD 20B”.

(40) Insert, in appropriate alphabetical order:

reportable income is defined in section 22D(3) of the Tax Administration Act 1994

(41) Repeal the definition of **residential building**.

(42) In the definition of **residential land**, paragraph (a)(i), replace “farmland,” with “farmland”.

(43) In the definition of **schedular income**, after paragraph (k), insert:

(l) income to which section RD 20B (Payments of accident compensation for period of more than 1 year) applies:

(m) income to which section RD 20C (Payments of recalculated main benefit) applies

(44) Insert, in appropriate alphabetical order:

securitisation trust, for an income year, means a trust that, from the establishment of the trust to the end of the relevant income year, only has one beneficiary and that beneficiary is a company, and at all times during the income year—

(a) operates to do 1 or more of the following:

(i) guarantee liabilities of a financial institution (**person A**), who transferred some or all of their assets to the trust:

(ii) guarantee liabilities of a company, incorporated in and resident in New Zealand, that is a member of a wholly-owned group of companies that includes person A:

(iii) raise funds by issuing securities backed by its assets:

(iv) raise funds by borrowing money backed by its assets; and

(b) has interests in assets for the sole purpose of carrying out the trust’s operations described in paragraph (a); and

(c) receives only funds that—

(i) are used to acquire assets as described in paragraph (b):

(ii) are derived from assets described in paragraph (b):

(iii) are incidental to the trust’s sole purpose described in paragraph (b); and

(d) derives no exempt income; and

(e) is a New Zealand resident; and

- (f) meets at least one of the following requirements:
- (i) the beneficiary of the trust is a lending person:
 - (ii) the trust has its assets included in financial statements that are prepared using IFRSs
- (45) Insert, in appropriate alphabetical order:
securitisation trust beneficiary means a beneficiary of a securitisation trust
- (46) Insert, in appropriate alphabetical order:
special excluded depreciable property is defined in section EE 67 (Other definitions)
- (47) Insert, in appropriate alphabetical order:
straight-line equivalent method is defined in section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section
- (48) Insert, in appropriate alphabetical order:
supplying shareholder is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section
- (49) In the definition of **timber**, paragraph (b),—
- (a) repeal subparagraph (ii):
 - (b) subparagraph (iv), replace “Disposals” with “Certain disposals”.
- (50) In the definition of **trading stock**,—
- (a) paragraph (a), delete “(bb), (bc),”:
 - (b) paragraph (b), words before the subparagraphs, replace “EB 24 (Apportionment on disposal of business assets that include trading stock), FB 13 (Trading stock),” with “FB 13 (Trading stock), FC 1 (Disposals to which this subpart applies),”:
 - (c) repeal paragraphs (bb) and (bc):
 - (d) paragraph (c), replace “Disposals” with “Certain disposals”.
- (51) Replace the definition of **trading transactions** with:
- trading transactions**—
- (a) is defined in section CD 34B(8) (Distributions to members of co-operative companies) for the purposes of that section:
 - (b) is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section
- (52) Replace the definition of **transaction shares** with:

transaction shares—

- (a) is defined in section CD 34B(5) (Distributions to members of co-operative companies) for the purposes of that section:
 - (b) is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section
- (53) In the definition of **trust rules**,—
- (a) in paragraph (ab), after “CW 54,”, insert “CX 58, CX 58B,”:
 - (b) in paragraph (g), replace “LE 4, LE 5, LF 2, LF 3,” with “LE 4 to LE 5”.
- (54) Subsections (4), (19), (20), and (47) apply for the 2008–09 and later income years. However, subsections (4), (19), (20), and (47) do not apply to a person in relation to a tax position taken by the person—
- (a) in the period that starts on the first day of the 2008–09 income year and ends on the day after this Act receives the Royal assent; and
 - (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant or the making of noise; and
 - (c) relying on section DB 46 as it was before the amendments made by subsections (4), (19), (20), and (47) and sections 38 and 49.
- (55) Subsections (13), (21), (22), (23), (33), (41), (46), and (53) apply for the 2024–25 and later income years.
- (56) Subsection (42) applies,—
- (a) for the purposes of the rules related to the bright-line test for residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, subsection (42) does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, subsection (42) does not apply to—
 - (i) 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 27 March 2021:
 - (ii) 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 27 March 2021, the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision:
 - (b) for other purposes, for the 2021–22 and later income years.

- (57) Subsection (43) applies for accident compensation earnings-related payments, personal service rehabilitation payments, and payments of main benefit made on or after 1 April 2024.

119 Section YB 8 amended (Trustee and settlor)

- (1) In section YB 8(2), replace “charitable trust” with “tax charity”.
- (2) In section YB 8, list of defined terms, delete “charitable trust” and insert “tax charity”.

120 Section YD 4 amended (Classes of income treated as having New Zealand source)

Replace section YD 4(17D), other than the heading, with:

- (17D) Income of a non-resident that may be taxed in New Zealand under a double tax agreement and does not have a source under subsections (15) to (17) has a source in New Zealand unless the income is—
- (a) a dividend from a share in a foreign company that is not revenue account property:
 - (b) fees for technical, management, or similar services that are treated as royalties under a double tax agreement:
 - (c) a royalty or interest payment attributable, under a double tax agreement, to a permanent establishment outside New Zealand.

121 Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits)

- (1) In schedule 1, part A, clause 1, replace “2 to 10” with “2 to 14”.
- (2) In schedule 1, part A, clause 3,—
- (a) replace “clause 4, 5 or 6” with “clause 4, 5, 6, or 6B”:
 - (b) replace “0.33” with “0.39”.
- (3) In schedule 1, part A, clause 6, replace paragraph (c) with:
- (c) a widely-held superannuation fund:
 - (d) a legacy superannuation fund.
- (4) After schedule 1, part A, clause 6, insert:

6B Taxable income: trustees of certain trusts and estates

To the extent to which a trustee does not have a basic rate under clause 4, the basic rate of income tax on each dollar of the trustee’s taxable income is 0.33 if the trustee is a trustee of—

- (a) a disabled beneficiary trust:
- (b) an estate referred to in section HC 8B (Trustee income in income year of person’s death and following 3 income years):

- (c) a lines trust:
- (d) a de minimis trust.

(5) In schedule 1, part A, after clause 12, insert:

13 Schedular taxable income: accident compensation payments for period of more than 1 year

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income from a payment to which section RD 20B (Payments of accident compensation for periods of more than 1 year) applies is the tax rate given by section RD 20B(3) for the payment and the tax year in which the person derives the payment.

14 Schedular taxable income: recalculated main benefit payments

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income from a payment to which section RD 20C (Payments of recalculated main benefit) applies is the rate of income tax given by section RD 20C(3) for the payment and the tax year in which the person derives the payment.

- (6) Subsections (2) and (4) apply for the 2024–25 and later income years.
- (7) Subsection (5) applies for accident compensation earnings-related payments, personal service rehabilitation payments, and payments of main benefit made on or after 1 April 2024.

122 Schedule 15 repealed (Excepted residential land)

Repeal schedule 15.

123 New schedule 25B inserted and amended (Items modifying global anti-base erosion model rules)

- (1) After schedule 25, insert the schedule 25B set out in schedule 2 of this Act.
- (2) In schedule 25B (as inserted by subsection (1)), replace the shoulder reference with “ss DB 1, HP 3, LJ 3, OB 7BB, OP 11BA”.
- (3) In schedule 25B (as inserted by subsection (1)), after item 1, insert:

1B The following Articles are inserted after Article 2.1.6:

2.1.7 A Parent Entity located in New Zealand that is a member of an MNE Group that includes an Ultimate Parent Entity located in New Zealand shall apply the provisions of Articles 2.1.1 to 2.1.5 with respect to a Low-Taxed Constituent Entity that is located in New Zealand. For this purpose, an Ultimate Parent Entity shall be treated as owning all Ownership Interests in itself.

2.1.8 Article 2.1.7 does not apply to a Parent Entity of an MNE Group that is in the initial phase of its international activity (*see* Article 9.3.2).

- (4) In schedule 25B (as inserted by subsection (1)), after item 5, insert:

5B In Article 9.3.2, in the words before the paragraphs, “Article 9.3” is replaced with “Articles 2.1 and 9.3”.

- (5) Subsection (1) applies for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2025.
- (6) Subsections (3) and (4) apply for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2026.

124 Schedule 32 amended (Recipients of charitable or other public benefit gifts)

- (1) This section amends schedule 32.
- (2) Insert, in appropriate alphabetical order:
 - (a) “Butterfly Trust”:
 - (b) “Develop Together”:
 - (c) “Ekal Vidyalaya Foundation of New Zealand”:
 - (d) “Pasifika Safe Shelter Trust”:
 - (e) “The Limapela Foundation”:
 - (f) “The Make My Name Count NZ Charitable Trust”.
- (3) Insert, in appropriate alphabetical order, “Emergency Alliance”.
- (4) Delete—
 - (a) “Akha Rescue Ministry Charitable Trust”:
 - (b) “Astha Childrens Home (Nepal/New Zealand)”:
 - (c) “Bangladesh Flood Appeal Trust”:
 - (d) “Nelson Mandela Trust (New Zealand)”:
 - (e) “Operation Hope (Aid Ship to Africa)”:
 - (f) “The Bouganville Library Trust”:
 - (g) “The Mutima Charitable Trust”.
- (5) Delete “The Make My Name Count NZ Charitable Trust” and “Ekal Vidyalaya Foundation of New Zealand”.

125 Schedule 35 amended (Public purpose Crown-controlled companies)

- (1) This section amends schedule 35.
- (2) Delete “Crown Asset Management Limited”.
- (3) Delete “Ōtākaro Limited”.
- (4) Insert “Rau Paenga Limited”.

126 New schedule 39 inserted (Items for purposes of definition of special excluded depreciable property)

- (1) After schedule 38, insert the schedule 39 set out in schedule 3 of this Act.

- (2) Subsection (1) applies for the 2024–25 and later income years.

127 Consequential amendments to Income Tax Act 2007 related to bright-line test

The Income Tax Act 2007 is amended as set out in schedule 4, part A.

Part 3

Amendments to Tax Administration Act 1994

128 Amendments to Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

129 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) In the definition of **civil penalty**, after paragraph (cb), insert:
(cbb) a penalty under section 139AAB, 139AB, or 139AC; or
- (3) In the definition of **civil penalty**, replace paragraph (cbb) (as inserted by subsection (2)) with:
(cbb) a penalty under section 139AAB, 139AB, 139ABB, or 139AC; or
- (4) In the definition of **civil penalty**, paragraph (cc), replace “142H, 142I, 142J, or 142K” with “142H or 142I”.
- (5) In the definition of **civil penalty**, paragraph (cc) (as amended by subsection (4)), replace “142H or 142I” with “142H, 142I, 142J, or 142K”.
- (6) In the definition of **individual**, replace “22, 33, 37, 38,” with “4A, 22, 33, 37,”.
- (7) Insert, in appropriate alphabetical order:
multinational top-up tax return means a return required under section 78J
- (8) In the definition of **qualifying individual**, replace “4A, 22,” with “22, 38, 89C,”.

130 Section 22 amended (Keeping of business and other records)

In section 22(2), words after paragraph (n), after “(as applicable),” insert “or (for paragraph (lf)) the calendar year,”.

131 Section 22D amended (Key terms)

- (1) In section 22D(1), words before the paragraphs, replace “22, 33, 37, 38,” with “4A, 22, 33, 37,”.
- (2) In section 22D(2), words before the paragraphs, replace “4A, 22,” with “22, 38, 89C,”.
- (3) Subsections (1) and (2) apply for the 2018–19 and later income years.

132 Section 22H amended (Finalising accounts)

- (1) Replace section 22H(4)(a) with:
 - (a) the date set out in section 37(1):
- (2) Subsection (1) applies for the 2018–19 and later income years.

133 Section 24HB amended (Schedular payments: tax obligations undertaken by nominated persons)

- (1) In section 24HB(1), replace “tax affairs or social policy entitlements and obligations, or both” with “PAYE, FBT, and ESCT obligations”.
- (2) In section 24HB(3), replace “the payment” with “unpaid tax”.
- (3) In section 24HB(5), replace “tax year,” with “tax year in relation to the arrangement”.
- (4) In section 24HB(6), replace “Despite subsections (2) and (3), each” with “Each”.
- (5) In section 24HB(6), replace “tax payments” with “unpaid tax”.

134 Section 32E amended (Applications for RWT-exempt status)

In section 32E(1A), replace “trust” with “entity”.

135 Section 38 amended (Returns to annual balance date)

- (1) In section 38(1), delete “(other than an individual referred to in subsection (1C))”.
- (2) Replace section 38(1C) with:
 - (1C) Subsection (1) does not apply to a qualifying individual whose final account for the tax year is treated under section 22I(1)(b) as an assessment.
- (3) Subsections (1) and (2) apply for the 2018–19 and later income years.

136 Section 44C amended (Certificates about trees)

Replace section 44C(1) with:

- (1) The question whether trees are ornamental or incidental arises under the following provisions of the Income Tax Act 2007:
 - (a) section CB 25:
 - (b) sections FB 6 and FB 7:
 - (c) sections GC 1 and GC 2.

137 Section 59BA amended (Annual return for trusts)

- (1) Replace section 59BA(3)(b) with:
 - (b) the trust is a foreign trust:
- (2) Replace section 59BA(3)(b) (as replaced by subsection (1)) with:

- (b) the trust is a foreign trust:
- (bb) the trust is a foreign exemption trust:

- (3) Subsection (1) applies for the 2021–22 and later income years.
- (4) Subsection (2) applies for the 2023–24 and later income years.

138 Section 69B amended (Annual Maori authority credit account return required by Maori authority)

- (1) In section 69B(1), replace “A Maori authority must” with “Subject to subsection (3), a Maori authority must”.
- (2) After section 69B(2), insert:
- (3) Subsection (1) does not apply to a Maori authority that is a member of a consolidated imputation group if the ICA for the Maori authority has a nil balance at all times during the relevant tax year.
- (3) Subsections (1) and (2) apply for the 2020–21 and later tax years.

139 Section 78G amended (Country-by-country report from large multinational group)

- (1) Replace section 78G(2) with:
- (2) The report for a period must be provided to the Commissioner—
 - (a) in the prescribed electronic format; and
 - (b) by the date that is 12 months after the end of the period.
- (2) Subsection (1) applies for periods—
 - (a) set by the Commissioner under section 78G of the Tax Administration Act 1994; and
 - (b) starting on or after 1 January 2025.

140 New sections 78H to 78J inserted

- (1) After section 78G, insert:

78H Registration for purposes of applied global anti-base erosion rules

- (1) The Commissioner may register an MNE group if it includes an entity—
 - (a) to which the global anti-base erosion model rules apply; and
 - (b) located in New Zealand under the applied global anti-base erosion rules.
- (2) The Commissioner must deregister an MNE group that has been registered under subsection (1) if the Commissioner is satisfied that the group no longer includes an entity that meets the requirements set out in paragraphs (a) and (b) of that subsection.
- (3) A constituent entity of an MNE group that is not registered under this section must apply to the Commissioner for registration of the MNE group by the date that is 6 months after the end of any fiscal year ending on or after 1

January 2025 in which the constituent entity meets the requirements set out in subsection (1)(a) and (b).

- (4) An application for registration of an MNE group under this section must be in the form prescribed by the Commissioner and contain—
 - (a) the name of the ultimate parent entity of the MNE group; and
 - (b) the ultimate parent entity's tax file number, if any; and
 - (c) any taxpayer identification numbers of the ultimate parent entity; and
 - (d) any other information required by the Commissioner.
- (5) If an MNE group ceases to include an entity that meets the requirements set out in subsection (1)(a) and (b), a constituent entity of the group must notify the Commissioner of that fact by the date that is 6 months after the end of the fiscal year in which the group ceased to include an entity that meets those requirements.
- (6) An obligation of a constituent entity of an MNE group under this section may be met by another constituent entity of the MNE group that meets the requirements set out in subsection (1)(a) and (b).

78I Pre-assessment annual information reporting requirements for purposes of applied global anti-base erosion rules

- (1) A constituent entity of an MNE group must provide to the Commissioner, in the prescribed electronic format, the information set out in Article 8.1.4(a) to (e) of the global anti-base erosion model rules for the MNE group for each fiscal year in which the constituent entity is—
 - (a) an entity to which the global anti-base erosion model rules apply; and
 - (b) located in New Zealand under the applied global anti-base erosion rules.
- (2) The information required to be provided under subsection (1) for a fiscal year must be provided to the Commissioner by,—
 - (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year;
 - (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (3) Subsection (1) does not apply to a constituent entity of an MNE group for a fiscal year for which the information set out in Article 8.1.4(a) to (e) of the global anti-base erosion model rules for the MNE group has been provided by the relevant date set out in subsection (4)—
 - (a) to a foreign competent authority that is obliged to exchange that information with the Commissioner; and
 - (b) by—
 - (i) the ultimate parent entity of the MNE group; or

- (ii) another constituent entity of the MNE group that has been appointed by the MNE group to provide that information on behalf of the MNE group.
- (4) The relevant date referred to in subsection (3) is,—
 - (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year:
 - (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (5) The exclusion in subsection (3) does not apply to a constituent entity of an MNE group for a fiscal year in which the ultimate parent entity of the MNE group is located in New Zealand under the applied global anti-base erosion rules.
- (6) A constituent entity to which the exclusion in subsection (3) applies must notify the Commissioner of—
 - (a) the identity of the entity that is providing the relevant information for the fiscal year; and
 - (b) the jurisdiction in which that entity is located under the global anti-base erosion model rules.
- (7) A notification under subsection (6) for a fiscal year must be given by,—
 - (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year:
 - (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (8) An obligation of a constituent entity of an MNE group under this section may be met by another constituent entity of the MNE group that—
 - (a) is located in New Zealand under the applied global anti-base erosion rules; and
 - (b) has been appointed for that purpose by the members of the MNE group located in New Zealand under the applied global anti-base erosion rules.

78J Annual multinational top-up tax return

- (1) This section applies to a constituent entity located in New Zealand under the applied global anti-base erosion rules for a fiscal year in which the constituent entity is an entity to which the global anti-base erosion model rules apply.
- (2) The constituent entity must provide to the Commissioner a return for the fiscal year, in the form prescribed by the Commissioner, that shows—
 - (a) whether or not the constituent entity has a multinational top-up tax liability for the fiscal year; and
 - (b) the amount of multinational top-up tax payable by the constituent entity for the fiscal year, if any; and

- (c) any other information required by the Commissioner.
- (3) The return for a fiscal year must be provided to the Commissioner by,—
 - (a) for the first fiscal year for which the constituent entity is required to provide a return under this section, the date that is 20 months after the end of the fiscal year;
 - (b) otherwise, the date that is 16 months after the end of the fiscal year.
- (4) A return must contain a notice of the assessment required to be made under section 92BA.
- (2) Sections 78I and 78J, as inserted by subsection (1), apply for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2025.

141 Section 79 amended (Other annual returns)

- (1) In section 79, replace “sections 33 and 41 to 44” with “sections 33, 41 to 44, and 59BA”.
- (2) In section 79, replace “and 59BA” (as inserted by subsection (1)) with “59BA, and 78J”.
- (3) Subsection (1) applies for the 2021–22 and later income years.

142 Section 80 amended (Commissioner may require other returns to be made)

- (1) In section 80, after “44,”, insert “59BA,”.
- (2) In section 80, after “63,”, insert “78J,”.
- (3) Subsection (1) applies for the 2021–22 and later income years.

143 Section 89C amended (Notices of proposed adjustment required to be issued by Commissioner)

- (1) Replace section 89C(lba) and (lbab) with:
 - (lba) the assessment is of a penalty under section 139AAB, 139AB, 139AC, 142H, 142I, 142J, or 142K; or
- (2) In section 89C(lba) (as replaced by subsection (1)), after “139AB,”, insert “139ABB,”.

144 Section 91AAS amended (Declaration of emergency event for purposes of family scheme income)

- (1) In section 91AAS(1), delete “(i)”.
- (2) In section 91AAS(2), replace “, for the purposes of section MB 13(2)(r)(ii) of the Income Tax Act 2007, equal to or less than 12 months and beginning” with “that begins”.
- (3) In section 91AAS(3), delete “, except that the total period relating to an event may not exceed 12 months”.

145 Section 91C amended (Taxation laws in respect of which binding rulings may be made)

After section 91C(1)(ec), insert:

(ed) the applied global anti-base erosion rules, including commentary and guidance described in section HP 3(3)(b) of the Income Tax Act 2007; or

146 New section 92BA inserted (Taxpayer assessment of multinational top-up tax)

Before section 92B, insert:

92BA Taxpayer assessment of multinational top-up tax

- (1) A taxpayer who is required to provide a multinational top-up tax return for a fiscal year must make an assessment of the amount of multinational top-up tax payable by the taxpayer for the fiscal year.
- (2) An assessment under this section is made on the date on which the taxpayer's multinational top-up tax return is received at an office of the department.
- (3) This section does not apply to a taxpayer for a fiscal year if the Commissioner has made an assessment of the multinational top-up tax payable by the taxpayer for the fiscal year.

147 Section 94A amended (Assessment of shortfall penalties)

- (1) In section 94A(1), replace “142H or 142I” with “139AAB, 139AB, 139AC, 142H, 142I, 142J, or 142K”.
- (2) In section 94A(1) (as amended by subsection (1)), after “139AB,”, insert “139ABB,”.

148 New sections 94BB to 94BD inserted

After section 94B, insert:

94BB Assessment of penalty for large multinational group failing to meet country-by-country reporting requirements

- (1) The Commissioner may make an assessment for an ultimate owner of a large multinational group of the amount of a penalty under section 139AAB that, in the Commissioner's opinion, ought to be imposed, and the ultimate owner is liable to pay the penalty assessed.
- (2) Despite subsection (1), this section does not apply in so far as the ultimate owner establishes in proceedings challenging the assessment that the assessment is excessive or that the ultimate owner is not chargeable with the penalty.

94BC Assessment of penalty for member of large multinational group failing to provide information

- (1) The Commissioner may make an assessment for a member of a large multinational group of the amount of a penalty under section 139AB that, in the

Commissioner’s opinion, ought to be imposed, and the member is liable to pay the penalty assessed.

- (2) Despite subsection (1), this section does not apply in so far as the member establishes in proceedings challenging the assessment that the assessment is excessive or that the member is not chargeable with the penalty.

94BD Assessment of penalty for trustee failing to register, or provide information for, foreign exemption trust

- (1) The Commissioner may make an assessment for a trustee of a foreign exemption trust of the amount of a penalty payable under section 139AC that, in the Commissioner’s opinion, ought to be imposed, and the trustee is liable to pay the penalty assessed.
- (2) Despite subsection (1), this section does not apply in so far as the trustee establishes in proceedings challenging the assessment that the assessment is excessive or that the trustee is not chargeable with the penalty.

149 New section 94BCB inserted (Assessment of penalty for failing to register or provide information for purposes of applied global anti-base erosion rules)

After section 94BC (as inserted by section 148), insert:

94BCB Assessment of penalty for failing to register or provide information for purposes of applied global anti-base erosion rules

- (1) The Commissioner may make an assessment for a taxpayer of the amount of a penalty under section 139ABB that, in the Commissioner’s opinion, ought to be imposed, and the taxpayer is liable to pay the penalty assessed.
- (2) Despite subsection (1), this section does not apply in so far as the taxpayer establishes in proceedings challenging the assessment that the assessment is excessive or that the taxpayer is not chargeable with the penalty.

150 Section 120KBB amended (Interest for most standard method provisional taxpayers)

- (1) In section 120KBB(1)(a), delete “(for example: a person does not make a required payment, so section 120KE does not apply)”.
- (2) Subsection (1) applies for the 2022–23 and later income years.

151 Section 139A amended (Late filing penalty for certain returns)

- (1) In section 139A(1),—
 - (a) replace “the annual” with “the return required to be provided under section 78J, the annual”;
 - (b) delete “of this Act”.
- (2) After section 139A(2)(a)(i), insert:

(ib) a multinational top-up tax return:

- (3) After section 139A(3), insert:
- (3B) The late filing penalty for a multinational top-up tax return is \$500.
- (4) In section 139A(5), words before the paragraphs, after “information”, insert “, or from a multinational top-up tax return,”.

152 New section 139AAB inserted (Penalty for large multinational group failing to meet country-by-country reporting requirements)

- (1) After section 139AA, insert:

139AAB Penalty for large multinational group failing to meet country-by-country reporting requirements

- (1) This section applies when a large multinational group with an ultimate owner that is a New Zealand resident fails to comply with the requirements of section 78G.
- (2) The ultimate owner is liable to pay a penalty under this section.
- (3) The penalty under this section is the amount specified by the Commissioner, which must not exceed \$100,000.
- (4) The due date for payment of a penalty imposed under this section is the later of—
 - (a) 30 days after the date on which the Commissioner issues the notice of assessment for the penalty;
 - (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.
- (2) Subsection (1) applies for periods—
 - (a) set by the Commissioner under section 78G of the Tax Administration Act 1994; and
 - (b) starting on or after the date on which this section comes into force.

153 New section 139ABB inserted (Penalty for failing to register or provide information for purposes of applied global anti-base erosion rules)

After section 139AB, insert:

139ABB Penalty for failing to register or provide information for purposes of applied global anti-base erosion rules

- (1) A taxpayer is liable to pay a penalty under this section if—
 - (a) the taxpayer does not apply for registration as required under section 78H; or
 - (b) the taxpayer does not comply with the requirements of section 78I.

- (2) The penalty under this section is the amount specified by the Commissioner, which must not exceed \$100,000.
- (3) The due date for payment of a penalty imposed under this section is the later of—
 - (a) 30 days after the date on which the Commissioner issues the notice of assessment for the penalty:
 - (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.

154 Section 141B amended (Unacceptable tax position)

- (1) In section 141B(2), after “in relation to”, insert “multinational top-up tax or”.
- (2) In section 141B(3)(b), words before the subparagraphs, before “where”, insert “except in the case of multinational top-up tax,”.
- (3) In section 141B(8)(b), before “the tax”, insert “except in the case of multinational top-up tax,”.
- (4) Subsections (1), (2), and (3) apply in relation to multinational top-up tax for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2027.

155 Section 142 amended (Due date for payment of late filing penalty)

- (1) In section 142(1), words before the paragraphs, after “information”, insert “, or a multinational top-up tax return,”.
- (2) After section 142(1A), insert:
 - (1AB) The due date for the payment of a late filing penalty for a multinational top-up tax return is the date specified by the Commissioner, which must not be less than 30 days after the day on which the Commissioner notifies the taxpayer that the penalty is payable.

156 Section 142K amended (When reporting requirements for sellers operating on digital platforms not met)

In section 142K(2)(c), words before the subparagraphs, replace “they are required to provide to the reporting platform operator as a seller operating” with “the reporting platform operator requires them to provide to enable the reporting platform operator to meet its obligations as an operator”.

157 Section 225ABA repealed (Orders in Council: periods for purposes of certain provisions of Income Tax Act 2007 relating to disposals of trading stock)

Repeal section 225ABA.

158 New section 226G inserted (Application of changes to commentary or guidance relating to global anti-base erosion model rules)

After section 226F, insert:

226G Application of changes to commentary or guidance relating to global anti-base erosion model rules

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, make regulations providing for—
 - (a) the non-application of a change to—
 - (i) the commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the **Inclusive Framework**) and published by the OECD; or
 - (ii) guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD;
 - (b) a period for which a change referred to in paragraph (a) does not apply.
- (2) A regulation may provide for the change, extension, limitation, suspension, or cancellation of an earlier regulation.
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

159 Section 227F amended (Transitional provisions related to information disclosures)

- (1) Replace section 227F(1) with:
 - (1) Sections 16 to 17K are sections 16 to 19, 21, and 21BA of this Act, as they read on 17 March 2019, in rewritten form and are intended to have the same effect. Subsection (3) overrides this subsection.
- (2) In section 227F(2), words before the paragraphs, replace “at the commencement of this Act” with “on 18 March 2019”.
- (3) In section 227F(2)(a), replace “section 13C of this Act” with “section 10 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019”.

- (4) In section 227F(3), replace “the commencement of this Act” with “18 March 2019”.

160 Schedule 7 amended (Disclosure rules)

In schedule 7, part C, subpart 1, after clause 23B(6)(e), insert:

- (f) Health New Zealand.

161 Consequential amendments to Tax Administration Act 1994 related to bright-line test

The Tax Administration Act 1994 is amended as set out in schedule 4, part B.

Part 4

Amendments to other enactments and revocations

Amendments to Goods and Services Tax Act 1985

162 Amendments to Goods and Services Tax Act 1985

Sections 163 to 168 amend the Goods and Services Tax Act 1985.

163 Section 10 amended (Value of supply of goods and services)

In section 10(15C), delete “section IA 6 of” in each place.

164 Section 11A amended (Zero-rating of services)

In section 11A(1)(r), replace “for the purposes of section IA 6 of” with “under”.

165 Section 19N amended (Supply correction information)

In section 19N(7)(a), after “paragraph (b)”, insert “or (c)”.

166 Section 20 amended (Calculation of tax payable)

- (1) In section 20(3C), words before the paragraphs, replace “or (3LB)” with “(3LB), or (3LC)”.
- (2) In section 20(3J)(a)(iv)(B), replace “14(4)” with “6(3)(e)”.
- (3) In section 20(3LB), replace “section 3(1)(b)” with “section 3A(1)(b)”.
- (4) In section 20(3LC), words before the paragraphs, replace “A registered person” with “Despite subsection (3LB), a registered person”.

167 Section 25 amended (Adjustments for inaccuracies)

- (1) In section 25(4), words before the paragraphs, replace “the credit note or debit note” with “the tax invoice”.
- (2) In section 25(4), words before the paragraphs, replace “the tax invoice” with “the taxable supply information”.

168 Section 60C amended (Electronic marketplaces)

(1) After section 60C(3), insert:

(3B) Subsection (3C) applies when—

- (a) an operator of an electronic marketplace is treated for the purposes of this Act as the supplier of remote services; and
- (b) the operator collects an amount from the underlying supplier or deducts an amount from the payment made by the recipient of the services; and
- (c) the amount is used to meet the operator’s output tax liability for the supply.

(3C) To the extent of the operator’s output tax liability for the supply, the collection of the amount does not give rise to consideration for a supply for the purposes of this Act.

(2) In section 60C(3B) (as inserted by subsection (1)),—

- (a) in paragraph (a), replace “remote services” with “remote services or distantly taxable goods”;
- (b) in paragraph (b), replace “recipient of the services” with “recipient of the goods or services”.

(3) After section 60C(3C) (as inserted by subsection (1)), insert:

(3D) For the purposes of the electronic marketplace rules set out in section 152 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023, the Commissioner may determine the circumstances and the criteria required for a person to enter into an opt-out agreement under those rules.

Amendments to KiwiSaver Act 2006**169 Amendments to KiwiSaver Act 2006**

Sections 170 and 171 amend the KiwiSaver Act 2006.

170 Section 4 amended (Interpretation)

In section 4(1), definition of **salary or wages**, paragraph (a)(v)(A), replace “section RD 5(1)(b)(iii), (6)(bd) to (bg), and (7)” with “section RD 5(1)(b)(iii) and (6)(bd) to (bg)”.

171 Section 220B amended (Information sharing)

After section 220B(1)(c), insert:

- (d) information relating to the administration of the estate of a person who is a deceased member of a scheme.

*Amendments to Child Support Act 1991***172 Amendments to Child Support Act 1991**

Sections 173 and 174 amend the Child Support Act 1991.

173 Section 87A amended (Four-year time bar for amendment of certain assessments)

Replace section 87A(2)(c) with:

- (c) an amended assessment is required to give effect to a decision, determination, or exemption made under Part 5A (which relates to exemptions for hospital patients, persons suffering from long-term periods of illness, prisoners, persons under 16 years, and victims of sex offences).

174 Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)

In Schedule 1,—

- (a) insert the Part set out in schedule 5 of this Act as the last Part; and
- (b) make all necessary consequential amendments.

*Amendments to Income Tax Act 2004***175 Amendments to Income Tax Act 2004**

Sections 176 and 177 amend the Income Tax Act 2004.

176 Section DB 37 replaced (Avoiding, remedying, or mitigating effects of discharge of contaminant)

- (1) Replace section DB 37 with:

DB 37 Avoiding, remedying, or mitigating effects of discharge of contaminant

When this section applies

- (1) This section applies if a person—
 - (a) carries on a business in New Zealand; and
 - (b) the person incurs, in the business or in ending the operations of the business, expenditure that is—
 - (i) of a type listed in schedule 6B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant) and not in schedule 6B, part C; and
 - (ii) not incurred in relation to revenue account property other than land that is subject to section CB 6B (Disposal: land used for landfill, if notice of election); and
 - (c) no other provision allows a deduction for the expenditure.

Amount and timing of deduction

- (2) The person is allowed for an income year a deduction for the expenditure of,—
- (a) if paragraphs (b) and (c) do not apply, an amount that is calculated using the formula—

rate × value:
 - (b) if the operations of the business for which the expenditure was incurred come to an end in the income year, the diminished value or adjusted value of the expenditure for the income year:
 - (c) if an improvement to land described in schedule 6B on which the expenditure was incurred is destroyed, or is rendered useless for the purposes for which the expenditure was incurred, and paragraph (b) does not apply, the diminished value or adjusted value of the expenditure for the income year.

Definition of items in formula

- (3) The items in the formula in subsection (2)(a) are defined in subsections (4) and (6).

Rate

- (4) **Rate** is—
- (a) 100% if the expenditure is of a type listed in schedule 6B, part A, item 1, or part B and neither paragraph (b) nor (c) applies:
 - (b) the appropriate rate under subsection (5) if—
 - (i) the expenditure is of a type listed in schedule 6B, part A, items 2 to 5; and
 - (ii) paragraph (c) does not apply:
 - (c) the rate for the type of expenditure, the income year, the valuation method adopted under subsection (6), and the person determined by the Commissioner under section 91AAN of the Tax Administration Act 1994 if such a rate is determined.

Schedule 11 rates

- (5) The rate for expenditure if the requirements of subsection (4)(b) are met is—
- (a) the rate set out in schedule 11, column 2 (Banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in subsection (7) if the person chooses to use the straight-line equivalent method:
 - (b) the rate set out in schedule 11, column 1 that corresponds to the rate under paragraph (a) if the person chooses to use the diminishing value equivalent method.

Value

- (6) **Value** is—

- (a) the amount of the expenditure incurred if the person chooses to use the straight-line equivalent method:
- (b) the diminished value of the expenditure for the income year if the person chooses to use the diminishing value equivalent method.

Formula for rate for expenditure with assumed life

- (7) The formula for the rate referred to in subsection (5)(a) for a kind of expenditure to which subsection (4)(b) applies is—

$$100\% \div \text{assumed life.}$$

Definition of item in formula

- (8) In the formula in subsection (7), **assumed life** for expenditure and an income year is,—

- (a) for expenditure associated with a business activity that does not require a resource consent, 35:
- (b) for expenditure associated with a business activity that requires a resource consent, the lesser of 35 and the number of years in the period of the resource consent that include or follow the time at which the expenditure is incurred.

Adjusted value

- (9) In this section, **adjusted value** means, where the person chooses to use the straight-line equivalent method, the amount calculated using the formula—

$$\text{amount of expenditure} - \text{deductions allowed} + \text{income derived.}$$

Definition of items in formula

- (10) In the formula in subsection (9),—

- (a) **amount of expenditure** is the total amount of the expenditure incurred:
- (b) **deductions allowed** is the total amount of the expenditure allowed as a deduction in previous income years:
- (c) **income derived** is the total amount of income derived under section CB 24B(8) (Environmental restoration accounts) in relation to the expenditure.

Diminishing value equivalent method

- (11) In this section, **diminishing value equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the diminished value of the expenditure from the diminished value of the expenditure.

Straight-line equivalent method

- (12) In this section, **straight-line equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the amount of the expenditure incurred from the adjusted value of the expenditure.

Link with subpart DA

- (13) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: adjusted value, amount, business, capital limitation, deduction, diminished value, diminishing value equivalent method, general limitation, general permission, income, income year, New Zealand, revenue account property, straight-line equivalent method

- (2) Subsection (1) applies for an income year starting on or after 10 June 2005. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—
- (a) in the period that starts on 10 June 2005 and ends on the day after the date of Royal assent of this Act; and
 - (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant; and
 - (c) relying on section DB 37 as it was before the amendments made by subsection (1) and section 177.

177 Section OB 1 amended (Definitions)

- (1) This section amends section OB 1.
- (2) Insert, in appropriate alphabetical order:
- adjusted value** is defined in section DB 37 (Avoiding, remedying, or mitigating effects of discharge of contaminant) for the purposes of that section
- (3) Insert, in appropriate alphabetical order:
- diminishing value equivalent method** is defined in section DB 37 (Avoiding, remedying, or mitigating effects of discharge of contaminant) for the purposes of that section
- (4) Insert, in appropriate alphabetical order:
- straight-line equivalent method** is defined in section DB 37 (Avoiding, remedying, or mitigating effects of discharge of contaminant) for the purposes of that section
- (5) Subsections (2), (3), and (4) apply for an income year starting on or after 10 June 2005. However, subsections (2), (3), and (4) do not apply to a person in relation to a tax position taken by the person—
- (a) in the period that starts on 10 June 2005 and ends on the day after the date of Royal assent of this Act; and
 - (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant; and
 - (c) relying on section DB 37 as it was before the amendments made by subsections (2), (3), and (4) and section 176.

*Amendments to Gaming Duties Act 1971***178 Amendments to Gaming Duties Act 1971**

Sections 179 and 180 amend the Gaming Duties Act 1971.

179 Section 3 amended (Interpretation)

In section 3, the words after the definitions, replace “sections 12B and 12M” with “sections 12B, 12M, and 12S”.

180 New Part 2C inserted (Offshore gambling duty)

After Part 2B, insert:

Part 2C
Offshore gambling duty

12S Interpretation

(1) In this Part, unless the context otherwise requires,—

consumption charges has the meaning set out in section 105 of the Racing Industry Act 2020

gambling has the meaning set out in section 4(1) of the Gambling Act 2003

offshore gambling means any gambling or prize competition that a person who is resident in New Zealand pays an amount of money to participate in through the supply of remote services that are physically performed outside New Zealand

offshore gambling operator means—

- (a) a registered person located outside New Zealand who conducts any offshore gambling; and
- (b) for any return period and the obligations and liabilities under sections 12U to 12W of a person who was at any time during that period an offshore gambling operator, includes that person notwithstanding that the person may have ceased, during or after the return period, to be an offshore gambling operator within the meaning of paragraph (a)

prize competition means a scheme or competition—

- (a) for which direct or indirect consideration is paid to a person for conducting the scheme or competition; and
- (b) that distributes prizes of money or in which participants seek to win money; and
- (c) for which the result is determined—
 - (i) by the performance of the participant of an activity of a kind that may be performed more readily by a participant possessing or exercising some knowledge or skill; or

- (ii) partly by chance and partly by the performance of an activity as described in subparagraph (i), whether or not it may also be performed successfully by chance

registered person means a person who is registered or is liable to be registered under the Goods and Services Tax Act 1985

remote services means a service that, at the time of the performance of the service, has no necessary connection between—

- (a) the place where the service is physically performed; and
(b) the location of the recipient of the service

return period means any period of 3 consecutive calendar months that ends with the last day of March, June, September, or December for which a statement of offshore gambling profits and offshore gambling duty payable is required to be delivered under section 12V.

- (2) For the purposes of this Part, section 8B of the Goods and Services Tax Act 1985 applies to determine whether a person is resident in New Zealand as if the offshore gambling operator were a supplier of remote services under that Act.

12T Offshore gambling profits

- (1) **Offshore gambling profits**, in relation to any offshore gambling operator and any return period, means an amount calculated using the following formula for supplies of offshore gambling for which the time of supply under section 9 of the Goods and Services Tax Act 1985 has occurred in that return period:

amounts received from residents – prizes paid to residents – offshore betting amounts.

- (2) In the formula in subsection (1),—
- (a) **amounts received from residents** is the total amount in money received by the offshore gambling operator from persons resident in New Zealand:
- (b) **prizes paid to residents** is the total amount in money paid and payable by the offshore gambling operator to persons resident in New Zealand as winnings for offshore gambling:
- (c) **offshore betting amounts** is the total amount in money on which consumption charges are payable under section 113 of the Racing Industry Act 2020.
- (3) If the amount calculated under the formula in subsection (1) for any return period is a negative amount, then that negative amount may be used to reduce a positive amount under the formula for the next return period.
- (4) If, after use of the negative amount described in subsection (3), an excess negative amount remains, the excess may be used to reduce a positive amount under the formula in the immediately following return period.

- (5) Subsection (4) continues to apply until the excess negative amount is extinguished.
- (6) For the purposes of determining the amount of offshore gambling profits under this section, an offshore gambling operator is treated as if they were a non-resident supplier of remote services under section 8(3)(c) of the Goods and Services Tax Act 1985 to which section 77 of that Act applies.

12U Offshore gambling duty

There shall be paid to the Crown a duty (in this Act referred to as **offshore gambling duty**) at the rate of 12% of the offshore gambling profits of an offshore gambling operator for offshore gambling profits arising on or after 1 July 2024.

12V Quarterly returns to be furnished to Commissioner

- (1) Every offshore gambling operator shall deliver to the Commissioner a statement in the prescribed form of—
 - (a) the offshore gambling profits of the offshore gambling operator for the previous return period; and
 - (b) the offshore gambling duty payable by the offshore gambling operator for those offshore gambling profits for that previous return period.
- (2) A person who ceases to be an offshore gambling operator shall deliver to the Commissioner a final statement as set out in subsection (1) for the part of the last return period for which they were an offshore gambling operator.
- (3) A statement required by subsection (1) or (2) must be delivered on or before—
 - (a) 7 May if the return period ends on 31 March; or
 - (b) in any other case, the 28th of the month following the end of the return period.
- (4) A statement of offshore gambling profits and offshore gambling duty payable for any return period that purports to be made by or on behalf of any offshore gambling operator shall for all purposes be deemed to have been made by that offshore gambling operator, or by that offshore gambling operator's authority, unless the contrary is proved.

12W Payment of offshore gambling duty

Every offshore gambling operator shall, not later than the last day allowed under section 12V for the delivery of the statement of offshore gambling profits and offshore gambling duty payable for any return period, pay to the Commissioner the offshore gambling duty payable for that return period.

12X Assessments, challenges, and recovery of duty

Sections 12G, 12H, 12HA, 12K, and 12L (except section 12K(2)), as far as they are applicable and with any necessary modifications, shall apply for the purposes of this Part as if—

- (a) every reference in those provisions to gaming machine duty were a reference to offshore gambling duty; and
- (b) every reference in those provisions to a gaming machine operator were a reference to an offshore gambling operator; and
- (c) every reference in those provisions to gaming machine profits were a reference to offshore gambling profits; and
- (d) every reference in those provisions to section 12D were a reference to section 12V; and
- (e) every reference in those provisions to section 12E were a reference to section 12W.

Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022**181 Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022**

Sections 182 and 183 amend the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022.

182 Section 48 amended (Section CB 6A replaced (Disposal within 10 years: Bright-line test for residential land))

In section 48(2), replace “Subsection (1) applies” with “Section CB 6A, as inserted by subsection (1), applies” and “subsection (1) does not apply” with “section CB 6A, as inserted by subsection (1), does not apply” in both places it appears.

183 Section 227 amended (Section 183ABAC amended (Remission of interest on terminal tax for 2020–21 tax year for provisional taxpayers affected by COVID-19))

In section 227(8), replace “(7)” with “(7)(b)”.

Amendments to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023**184 Amendments to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023**

Sections 185 to 200 amend the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023.

185 Section 2 amended (Commencement)

In section 2(39),—

- (a) replace “24,” with “24B,”;
- (b) replace “and (7), 124(5),” with “and (7), 123(1A), 124(5),”;
- (c) delete “131,”;
- (d) replace “136, 137(4),” with “136B, 137(4),”;
- (e) replace “(23), (27), and (28),” with “(23), and (28),”;
- (f) replace “(3), and (5), 146,” with “(3), and (5), 145B, 146,”;
- (g) replace “and (5), 153,” with “(5), and (5B), 152B, 153,”;
- (h) replace “155, 167” with “155, 157B, 167”.

186 Section 24 repealed (Section CX 1 amended (Goods and services tax))

Repeal section 24.

187 New section 24B inserted (New section CX 1B inserted (Treatment of flat-rate credits under platform economy rules))

After section 24, insert:

24B New section CX 1B inserted (Treatment of flat-rate credits under platform economy rules)

After section CX 1, insert:

CX 1B Treatment of flat-rate credits under platform economy rules

For the purposes of the flat-rate credit, as defined in section 2(1) of the Goods and Services Tax Act 1985, the amount of the credit is excluded income of the person receiving the credit, whether or not the person is a registered person.

Defined in this Act: amount, excluded income, registered person

188 Section 121 amended (Section 2 amended (Interpretation))

In section 121(2), in the definition of **electronic marketplace**,—

- (a) in paragraph (a), replace “following supplies by electronic means through another person” with “following supplies through another person”;
- (b) in paragraph (a)(ii), replace “remote services” with “remote services by electronic means”.

189 Section 123 amended (Section 3A amended (Meaning of input tax))

In section 123, before subsection (1), insert:

- (1A) After section 3A(1)(c), insert:

- (d) an amount equal to the flat-rate credit that an operator of an electronic marketplace or listing intermediary passes on under section 8C(3)(b)(ii) to an underlying supplier.

190 Section 130 amended (New section 8C inserted (Supplies of listed services))

- (1) In section 130(1), after new section 8C(4), insert:
- (4B) The amount of a flat-rate credit when passed on by an operator of an electronic marketplace to an underlying supplier does not constitute consideration for a supply of goods or services.
- (2) In section 130(1), after new section 8C(7), insert:
- (7B) Subsection (7) does not apply to a supply of services connected to a listed service when the supply is made by a listing intermediary directly to a recipient, ignoring for this purpose the effect of section 60CB(3)(a), which treats a supply of other services by the listing intermediary to a recipient of listed services as instead being made to the operator of the marketplace.

191 Section 131 repealed (Section 9 amended (Time of supply))

Repeal section 131.

192 Section 134 replaced (Section 11A amended (Zero-rating of services))

Replace section 134 with:

134 Section 11A amended (Zero-rating of services)

After section 11A(1)(jc), insert—

- (jd) the services are a supply of services to which section 60(1D)(a) and (b) applies, being supplies made by an underlying supplier to a listing intermediary and by a listing intermediary to an operator of an electronic marketplace, including a supply referred to in section 60CB(3)(a); or

193 Section 136 repealed (Section 19K amended (Taxable supply information: supplies by registered person))

Repeal section 136.

194 New section 136B inserted (New section 19NB inserted (Taxable supply information and supply correction information for listed services))

After section 136, insert:

136B New section 19NB inserted (Taxable supply information and supply correction information for listed services)

After section 19N, insert:

19NB Taxable supply information and supply correction information for listed services

Despite sections 19K to 19N, in relation to a supply of listed services made by an operator of an electronic marketplace, taxable supply information and supply correction information, as applicable, must be provided to the recipient of the supply without the need for a request. For the avoidance of doubt, when section 60CB(7) applies to treat a listing intermediary as if they were the operator of an electronic marketplace, the responsibility for providing the information remains with the operator of the electronic marketplace.

195 Section 137 amended (Section 20 amended (Calculation of tax payable))

- (1) In section 137(23), new section 20(3N), replace “listed services.” with “listed services. For the purposes of calculation of the amount under this subsection, the special valuation rule in section 10(7D) is ignored.”
- (2) Repeal section 137(27).

196 New section 145B inserted (New section 25AAA inserted (Corrections of inaccuracies by marketplace operators))

After section 145, insert:

145B New section 25AAA inserted (Corrections of inaccuracies by marketplace operators)

After section 25, insert:

25AAA Corrections of inaccuracies by marketplace operators

- (1) This section applies when an operator of an electronic marketplace—
 - (a) is required to deduct input tax for a flat-rate credit to pass on under section 20(3)(de) to an underlying supplier; and
 - (b) discovers, after having deducted the amount, that the amount is incorrect.
- (2) The operator of the electronic marketplace must correct the amount of input tax or output tax, as applicable, as follows:
 - (a) if the amount of input tax is more than the correct amount, the operator must return an amount of output tax that is equal to the excess input tax:
 - (b) if the amount of input tax is less than the correct amount, the operator must deduct input tax of an amount equal to the deficiency in the input tax.
- (3) The adjustments referred to in subsection (2)(a) and (b) must be made for the taxable period in which the inaccuracy is discovered.
- (4) For the purposes of subsection (2)(a), if the requirement to pass on the flat-rate credit to the underlying supplier has been met, the amount of the excess may be offset in relation to another amount of flat-rate credit required to be passed on.

- (5) The operator of the electronic marketplace must pass on any amount of the deficiency referred to in subsection (2)(b) to the underlying supplier under section 8C(3)(b)(ii).

197 Section 151 amended (Section 60 amended (Agents and auctioneers))

- (1) Replace section 151(1) with:
- (1) Replace section 60(1A)(b) with:
- (b) makes supplies for and on behalf of a non-resident principal of—
- (i) remote services to a person resident in New Zealand:
- (ii) distantly taxable goods:
- (iii) listed services.
- (2) After section 151(1), insert:
- (1B) After section 60(1C), insert:
- (1D) For the purposes of sections 60C and 60CB, when a listing intermediary is interposed between an operator of an electronic marketplace and an underlying supplier, the operator, supplier, and listing intermediary must treat the supply as 3 separate supplies, being—
- (a) a supply from the underlying supplier to the listing intermediary:
- (b) a supply from the listing intermediary to the operator:
- (c) a supply from the operator to the recipient of the supply.
- (3) In section 151(2), replace “Subsection (1) applies” with “Subsections (1) and (1B) apply”.

198 Section 152 amended (Section 60C amended (Electronic marketplaces))

- (1) In section 152(4), new section 60C(2BD)(a), replace “:” with “; and”.
- (2) In section 152(4), new section 60C(2BE), words before the paragraphs, replace “as defined in section IA 6 of” with “under”.
- (3) In section 152(4), replace new section 60C(2BF)(a) with:
- (a) the underlying supplier is a person, other than a natural person, that does not meet the requirement in section 15(2)(a) for a 6-month taxable period; and
- (4) After section 152(5), insert:
- (5B) In section 60C(3B)(a), replace “remote services or distantly taxable goods” with “remote services, distantly taxable goods, or listed services”.
- (5) In section 152(6), replace “and (5)” with “(5), and (5B)”.

199 New section 152B inserted (New section 60CB inserted (Listing intermediaries and supply of listed services))

After section 152, insert:

152B New section 60CB inserted (Listing intermediaries and supply of listed services)

After section 60C, insert:

60CB Listing intermediaries and supply of listed services

- (1) This section applies for the purposes of the rules related to the supply of listed services through an electronic marketplace when a listing intermediary is interposed between—
 - (a) the underlying supplier of the services; and
 - (b) the operator of the electronic marketplace.
- (2) The supply of the listed services is treated as 3 separate supplies as follows:
 - (a) a supply by the underlying supplier to the listing intermediary that is zero-rated under section 11A(1)(jd) if the underlying supplier is a registered person; and
 - (b) a supply from the listing intermediary to the operator of the electronic marketplace that is zero-rated under section 11A(1)(jd); and
 - (c) a supply of listed services under section 8C by the operator to the recipient of the services, treating the operator as if they were the underlying supplier of the listed services.
- (3) When subsection (2) applies to a supply of listed services, a supply of other services by the listing intermediary to the recipient through the electronic marketplace is treated as 2 separate supplies as follows:
 - (a) a supply from the listing intermediary to the operator of the electronic marketplace that is zero-rated under section 11A(1)(jd); and
 - (b) a supply by the operator, in the course or furtherance of its taxable activity, to the recipient.
- (4) In relation to a supply described in subsection (2)(b) or (3)(a), the supply of listed services facilitated by a listing intermediary or a supply of other services by a listing intermediary does not create a requirement to provide taxable supply information.
- (5) For a supply described in subsection (2)(c), the listing intermediary is treated for the purposes of the definition of **flat-rate credit** and sections 8C(3)(b)(ii) and (6), 20(3)(de) and (3N), 25AAA, and 60H as if they were the operator of the electronic marketplace and must meet all the requirements placed on the operator in relation to the flat-rate credit under those provisions for that supply.
- (6) Subsection (7) applies, in relation to an operator of an electronic marketplace, when a listing intermediary resident in New Zealand—
 - (a) enters into agreements with more than one operator of an electronic marketplace to list or advertise the listed services provided by an underlying supplier on those marketplaces; and

- (b) enables or facilitates the supply of the listed services through the use of an electronic system that can facilitate and manage automatically the bookings made by recipients of the services; and
 - (c) has agreed with the operator of the electronic marketplace, recording their agreement in a document, that the listing intermediary is liable for the payment of tax in relation to the supplies of listed services on that electronic marketplace.
- (7) Despite subsections (2) and (3), the listing intermediary is treated for the purposes of this section, the definition of **flat-rate credit**, and sections 8C, 20(3)(de) and (3N), 25AAA, 60(1C), 60C(2)(ab), (2BB), (2BE), (2BF), (3B), and (3C), 60H, and 85E as if they were the operator of the electronic marketplace and must meet all the requirements placed on the operator. The operator has no liability under this Act in relation to the supply of the listed services other than the provision of taxable supply information and supply correction information, as applicable, to the recipient as required under section 19NB. For the avoidance of doubt, the operator is treated as the supplier for the provision of that information.
- (8) A **listing intermediary** means a registered person who—
- (a) lists services referred to in section 8C(2)(a) on an electronic marketplace on behalf of the underlying supplier who makes those supplies through the electronic marketplace; and
 - (b) enters into an agreement with an operator of an electronic marketplace to list or advertise the listed services provided by the underlying supplier.

200 Section 153 amended (New section 60H inserted (Information requirements for underlying suppliers operating through electronic marketplaces))

In section 153(1), after new section 60H(1), insert:

- (1B) If a listing intermediary is treated as if they were the operator of the electronic marketplace under section 60CB(5) or (7), the underlying supplier must also treat the listing intermediary as if they were the operator for the purposes of subsections (1), (2), and (4).

201 New section 157B inserted (New section 85E inserted (Certain contracts entered into before 1 April 2024))

After section 157, insert:

157B New section 85E inserted (Certain contracts entered into before 1 April 2024)

After section 85D, insert:

85E Certain contracts entered into before 1 April 2024

- (1) This section applies to a supply of listed services described in section 8C(2)(a) when—
 - (a) the supply is made through an electronic marketplace; and
 - (b) the contract under which the supply is made was entered into before 1 April 2024; and
 - (c) the time of supply for that supply takes place on or after 1 April 2024; and
 - (d) section 60C(2)(ab) would apply to the supply in the absence of this section.
- (2) Subject to subsections (3) and (4), the operator of the electronic marketplace may choose that section 60C(2)(ab) will not apply to the supply. For the purposes of this subsection and subsection (3), a listing intermediary is treated as if they were the operator of the electronic marketplace if section 60CB(7) applies.
- (3) If the underlying supplier is a registered person, the operator of the electronic marketplace may only apply subsection (2) if they take reasonable steps within a reasonable time to—
 - (a) notify the underlying supplier that the operator chooses not to apply section 60C(2)(ab) to that supply; and
 - (b) provide sufficient information to the underlying supplier to enable the underlying supplier to correctly account for output tax on the supply.
- (4) If section 60CB(7) does not apply and a listing intermediary is interposed between the underlying supplier and the operator of the electronic marketplace, the operator may only apply subsection (2) if they take reasonable steps within a reasonable time to—
 - (a) notify the listing intermediary that the operator chooses not to apply section 60C(2)(ab) to that supply; and
 - (b) provide sufficient information to the listing intermediary for the listing intermediary to provide to the underlying supplier to enable the underlying supplier to correctly account for output tax on the supply.

***Amendment to Tax Administration (Regular Collection of Bulk Data)
Regulations 2022***

**202 Amendment to Tax Administration (Regular Collection of Bulk Data)
Regulations 2022**

- (1) This section amends the Tax Administration (Regular Collection of Bulk Data) Regulations 2022.
- (2) Revoke regulation 13.

*Revocations***203 Revocations**

The following orders are revoked:

- (a) COVID-19 Resurgence Support Payments Scheme (August 2021) Order 2021 (LI 2021/222):
- (b) COVID-19 Resurgence Support Payments Scheme (July 2021) Order 2021 (LI 2021/166):
- (c) COVID-19 Resurgence Support Payments Scheme (March 2021) Order 2021 (LI 2021/33):
- (d) COVID-19 Support Payments Scheme (Omicron Outbreak) Order 2022 (SL 2022/45).

Schedule 1

Definitions repealed

s 118(2)

code compliance certificate
disallowed residential property
excepted residential land
exempt Māori company
grandparented residential interest
grandparented transitional loan
interposed residential property holder
interposed residential property percentage
new build land
residential land company
residential land wholly-owned group member

Schedule 2

New schedule 25B inserted into Income Tax Act 2007

s 123(1)

Schedule 25B

Items modifying global anti-base erosion model rules

s HP 3

- 1 Each of the following formulations of wording are replaced by the words “New Zealand” in each place:
- (a) “[insert name of implementing-jurisdiction]”:
 - (b) “[insert name of implementing-Jurisdiction]”:
 - (c) “[insert name of implementing jurisdiction]”.
- 2 Articles 2.4.1 and 2.4.2 are replaced with:
- 2.4.1 Constituent Entities of an MNE Group located in New Zealand shall, for a Fiscal Year, pay a tax in an amount equal to the least of the following amounts:
- (a) the amount that is equal to the sum of the UTPR Top-up Tax Amount for the Fiscal Year allocated to New Zealand and any amount carried forward to the Fiscal Year under Article 2.4.2:
 - (b) the amount that results from multiplying the sum of the annual total deduction and available tax losses for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year:
 - (c) the amount that results from multiplying the sum of the annual gross income for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year.
- 2.4.2 If, for a Fiscal Year, the amount described in Article 2.4.1(a) exceeds the amount of the tax liability described in that Article, an amount equal to the excess is carried forward to the next Fiscal Year.
- 3 Article 7.2.1(b)(i) is replaced with:
- (i) is a tax resident in the UPE Jurisdiction, or has a fixed establishment in the UPE Jurisdiction, or both; and
- 4 Article 8.1 is disregarded.
- 5 Article 8.3 is disregarded.

- 6 In Article 9.3.5, in the words before the paragraphs, the words “[*Optional provision*]” are disregarded.
- 7 In Article 9.3.5(a), the words “[*Optional provision*]” are disregarded.
- 8 Article 9.4 is disregarded.
- 9 The following Article is inserted after Article 10.1.1:
10.1.2 The terms **annual gross income**, **annual total deduction**, **available tax loss**, **fixed establishment**, **income year**, and **tax year** have the same meanings as in the Income Tax Act 2007 (NZ).

Schedule 3
New schedule 39 inserted into Income Tax Act 2007

s 126(1)

Schedule 39
**Items for purposes of definition of special excluded depreciable
property**

s EE 67

Carports (hired out to householders)
Portable huts
Cool-stores and freezing chambers
Slaughterhouses on farms
Fowl houses
Plastic hothouses and PVC tunnel houses
Glasshouses
Buildings affected by acid
Milking sheds
Roofed livestock yards
Wintering barns and simple loafing barns
Milk powder buildings
Temporary buildings
Fish processing buildings
Tannery buildings affected by acid

Schedule 4

Consequential amendments related to bright-line test

ss 127, 161

Part A

Amendments to Income Tax Act 2007

Section CB 6AB repealed (Residential land transferred in relation to certain family trusts and other capacities)

Repeal section CB 6AB.

Section CB 6AC repealed (Residential land transferred in relation to certain Māori family trusts)

Repeal section CB 6AC.

Section CB 6AE repealed (Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi)

Repeal section CB 6AE.

Section CB 13 amended (Disposal: amount from major development or division and not already in income)

In section CB 13(1)(a), replace “CB 14, and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)” with “and CB 14”.

Section CB 14 amended (Disposal: amount from land affected by change and not already in income)

In section CB 14(1)(a), delete “and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

Section CB 15B amended (When land acquired)

In section CB 15B(1)(a), delete “except sections CB 6A and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

Section CB 23B amended (Land partially disposed of or disposed of with other land)

In section CB 23B, delete “, CZ 39, and CZ 40 (which relate to the bright-line test for residential land)”.

Section CZ 26B amended (Land and buildings affected by North Island adverse weather event—sections CB 6A, CB 9 to CB 11, and CZ 39 overridden for local authority and Crown purchases)

In the heading to section CZ 26B, replace “, CB 9 to CB 11, and CZ 39” with “and CB 9 to CB 11”.

In section CZ 26B, replace “, CB 9 to CB 11, and CZ 39” with “and CB 9 to CB 11”.

Section CZ 39 repealed (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)

Repeal section CZ 39.

Section CZ 40 repealed (Main home exclusion for bright-line: acquisition on or after 29 March 2018)

Repeal section CZ 40.

Section DB 23C repealed (Revenue account property: cost of some residential land reduced)

Repeal section DB 23C.

Section DB 29 amended (Apportionment when land acquired with other property)

In section DB 29, delete “and CZ 39”.

Section DH 5 amended (Key terms)

In section DH 5(5)(d)(i), replace “FC 9B(a) to (e), or FO 17 (which relate to rollover relief for the bright-line rule)” with “or FO 17, or subpart FD (which relate to rollover relief from the bright-line test)”.

Section DH 10 amended (Limited denial of deductibility: simplified calculation of interest affected)

In section DH 10(4)(c), replace “section FC 9B(a) to (f)” with “subpart FD”.

Section DH 11 amended (Denied amounts: treatment upon disposal of disallowed residential property)

In the headings to section DH 11(1) and (2), delete “or CZ 39”.

In section DH 11(1), replace “or CZ 39 (which relate to disposals for residential land within a given period from acquisition)” with “(Disposal within 2 years: bright-line test for residential land)”.

In section DH 11(2), delete “or CZ 39” in each place.

Section EL 2 amended (Outline of subpart: specific provisions)

In section EL 2(7), replace “sells residential land within the bright-line period” with “derives income under section CB 6A (Disposal within 2 years: bright-line test for residential land)”.

Section EL 3 amended (Definitions for this subpart)

In the definition of **land sales provisions**, delete “and CZ 39”.

Section EL 20 amended (Allocation of deductions related to bright-line disposals of residential land)

In section EL 20(1)(a), replace “or CZ 39 (which relate to the bright-line test for residential land)” with “(Disposal within 2 years: bright-line test for residential land)”.

In section EL 20(3)(a), delete “or CZ 39”.

Section FB 3A amended (Residential land)

In section FB 3A(1), replace “, CB 16A, CZ 39, and CZ 40” with “and CB 16A”.

In section FB 3A(3), replace “sections CB 6A, and CZ 39” with “section CB 6A”.

Section FC 2 amended (Transfer at market value)

In section FC 2(3), replace “FC 3 to FC 9C and FC 10” with “FC 3 to FC 9, FC 10, FD 1, and FD 2”.

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

Replace section FC 9(2), other than the heading, with:

- (2) Section CB 6A (Disposal within 2 years: bright-line test for residential land) does not apply to the transfer of residential land, including any intervening transfer to an executor or administrator (*see also*: section CB 6A(5)(b)).

In section FC 9(4), replace “on or after 1 April 2022 to a person who is a recipient as described in section FC 9B(a) to (e)” with “to a person who is a recipient as described in subpart FD” and replace “sections CB 6A and CZ 39 do” with “section CB 6A does”.

Section FC 9B repealed (Residential land: certain transferors)

Repeal section FC 9B.

Section FC 9C repealed (Residential land: certain recipients)

Repeal section FC 9C.

Section FC 9D repealed (Residential land: certain recipients of Treaty of Waitangi land)

Repeal section FC 9D.

Section FM 15 amended (Amortising property and revenue account property)

Replace section FM 15(2B), other than the heading, with:

- (2B) For the purposes of section CB 6A (Disposal within 2 years: bright-line test for residential land), in relation to property that is land, company B is treated as having the same bright-line start date as company A for that land.

In section FM 15, list of defined terms, replace “bright-line acquisition date” with “bright-line start date”.

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

In section FO 10(6), replace “5-year bright-line test, the 10-year bright-line test, or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, CB 14, and CZ 39” with “2-year bright-line test in section CB 6A or the 10-year rule in any of sections CB 9 to CB 11, and CB 14”.

Section FO 17 amended (Land)

In section FO 17(2)(a), delete “, and CZ 39”.

Replace section FO 17(2)(b) with:

- (b) the land is revenue account property of the amalgamating company but not merely because of the 2-year bright-line test in section CB 6A or the 10-year rule in any of sections CB 9 to CB 11 and CB 14, and the land is, or may be, revenue account property of the amalgamated company because of the 2-year bright-line test or the 10-year rule.

Replace section FO 17(3) and the heading with:

Disposal of land within 2-year bright-line test or 10-year rule

- (3) If the land is, or may be, revenue account property of the amalgamating company because of the 2-year bright-line test in section CB 6A or the 10-year rule in any of sections CB 9 to CB 11 and CB 14, and the amalgamated company disposes of the land within the relevant 2-year or 10-year period after the amalgamating company acquired it, an amount derived from the disposal is income of the amalgamated company under whichever is applicable of sections CB 6A to CB 14.

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

In section GB 52(1)(a), replace “the relevant date in section CB 6A(1)(a) or (b), or CZ 39(2)(a) or (b) (which relate to the bright-line test for residential land) is within 10 years or 5 years, as applicable,” with “the bright-line end date in section CB 6A(1) (Disposal within 2 years: bright-line test for residential land) is within 2 years”.

In section GB 52(1)(c), delete “or CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

In section GB 52, list of defined terms, insert “bright-line end date” and “year”.

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

In section GB 53(1)(c), replace “or CZ 39 (which relate to the bright-line test for residential land)” with “(Disposal within 2 years: bright-line test for residential land)”.

Section RL 1 amended (Residential land withholding tax)

Replace section RL 1(2)(a) with:

- (a) the relevant residential land purchase amount would be income of the vendor under section CB 6A (Disposal within 2 years: bright-line test for residential land) ignoring sections CB 6A(5)(a) and CB 16A (Main home exclusion for disposal within 2 years); and

Section YA 1 amended (Definitions)

Repeal the definition of **5-year test land**.

Repeal the definition of **10-year test land**.

Repeal the definition of **bright-line acquisition date**.

Repeal the definition of **bright-line disposal date** and **bright-line date**.

Repeal the definition of **bright-line grandparented home**.

In the definition of **business premises**, replace “sections CB 6A to CB 15 and CZ 39” with “sections CB 6 to CB 13 (which relate to disposals of land)”.

Repeal the definition of **date of acquisition**.

In the definition of **dispose**, in paragraph (a), replace “CB 16” with “CB 16A” and delete “CZ 39.”.

In the definition of **dwelling**, in paragraph (c), replace “sections CB 16A and CZ 40 (which relate to main home exclusions for disposals of residential land within bright-line periods)” with “section CB 16A (Main home exclusion for disposal within 2 years)”.

Repeal the definition of **exempt main home**.

Repeal the definition of **exempt main home period limit**.

Repeal the definition of **exempt predominant main home day**.

In the definition of **group of persons**, in paragraph (b), replace “10” with “2”, and repeal paragraph (e).

Repeal the definition of **main home person**.

In the definition of **residential land**, in paragraph (b), replace “CB 16A(2) (Main home exclusion for disposal within 10 years)” with “CB 16A(1) (Main home exclusion for disposal within 2 years)”.

In the definition of **trading stock**, in paragraph (b)(v), delete “and CZ 39”.

Part B

Amendments to Tax Administration Act 1994

Section 54C amended (Information in relation to payment of RLWT)

In section 54C(1), words before the paragraphs, replace “bright-line date for the residential land is either within 5 years if section CZ 39 applies, or within 10 years or 5 years, as the case may be, if section CB 6A applies,” with “bright-line end date for the residential land is within 2 years”.

In section 54C(1)(b), replace “bright-line date” with “bright-line end date”.

Section 54D amended (Information in relation to repayment of RLWT)

In section 54D(1)(b), replace “or CZ 40” with “of that Act”.

Section 54E amended (RLWT certificate of exemption)

In section 54E(4), replace “or CZ 40” with “of the Income Tax Act 2007”.

Schedule 5
New Part 7 inserted into Schedule 1 of Child Support Act 1991

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Part 7
**Provisions relating to Taxation (Annual Rates for 2023–24,
Multinational Tax, and Remedial Matters) Act 2024**

29 Amendment to section 87A (Four-year time bar for amendment of certain assessments)

The amendment to section 87A made by section 173 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 applies in respect of all child support years, whether ending before, on, or after 26 October 2021.

Legislative history

18 May 2023	Introduction (Bill 255–1), first reading and referral to Finance and Expenditure Committee
11 March 2024	Reported from Finance and Expenditure Committee (Bill 255–2)
19 March 2024	Second reading
26 March 2024	Committee of the whole House, third reading
28 March 2024	Royal assent

This Act is administered by the Inland Revenue Department.