

# Taxation (FBT, SSCWT and Remedial Matters) Act 2000

Public Act 2000 No 34  
Date of assent 25 September 2000

## Contents

		Page
1	Title	3
2	Commencement	3
<b>Part 1</b>		
<b>Amendments to Income Tax Act 1994</b>		
3	Income Tax Act 1994 <i>[Repealed]</i>	3
4	Certain compensation, benefits, and other payments are gross income <i>[Repealed]</i>	3
5	Meaning of term <b>dividends</b> <i>[Repealed]</i>	4
6	Interpretation <i>[Repealed]</i>	4
7	What constitutes an interest in a foreign investment fund <i>[Repealed]</i>	4
8	Use of alternative methods <i>[Repealed]</i>	4
9	Deemed rate of return method of calculation <i>[Repealed]</i>	4
10	Treatment of circumstances of entry into or exit from foreign investment fund regime <i>[Repealed]</i>	4
11	Meaning of <b>fringe benefit</b> <i>[Repealed]</i>	4
12	Election whether fringe benefit or dividend <i>[Repealed]</i>	4
13	Value of fringe benefit <i>[Repealed]</i>	5
14	Taxable value of fringe benefit <i>[Repealed]</i>	5
15	Exemption for minor unclassified benefits <i>[Repealed]</i>	5
16	Adjustment on amalgamation to exemption for minor unclassified benefits <i>[Repealed]</i>	5

17	Application of other provisions to fringe benefit tax <i>[Repealed]</i>	5
18	Use of test period to establish private use of motor vehicle <i>[Repealed]</i>	5
19	New headings and sections CL 3 to CL 21 inserted <i>[Repealed]</i>	5
20	New sections EN 6 and EN 7 inserted <i>[Repealed]</i>	5
21	Value of motor vehicle acquired from associated person <i>[Repealed]</i>	6
22	Credits and debits arising to branch equivalent tax account of person <i>[Repealed]</i>	6
23	Replacement of Part ND <i>[Repealed]</i>	6
24	Specified superannuation contribution withholding tax imposed <i>[Repealed]</i>	6
25	New section NE 2AA inserted <i>[Repealed]</i>	6
26	Specified superannuation contribution withholding tax to be deducted <i>[Repealed]</i>	6
27	Tax deemed for certain purposes to have been received by superannuation fund <i>[Repealed]</i>	6
28	New subpart EA inserted <i>[Repealed]</i>	7
29	Definitions <i>[Repealed]</i>	7
30	References to income years in particular provisions <i>[Repealed]</i>	7
31	Schedule 1—Basic rates of income tax and specified superannuation contribution withholding tax <i>[Repealed]</i>	7
32	Schedule 2—Fringe benefit values <i>[Repealed]</i>	7

**Part 2**

**Tax Administration Act 1994**

33	Tax Administration Act 1994	7
34	Interpretation	7
35	New sections 32A to 32C inserted	8
	32A Records to be provided by employer who contributes to superannuation fund	8
	32B Certification requirements for withdrawals subject to section CL 4 of Income Tax Act 1994	8
	32C Certification requirements for transfers from superannuation funds	10
36	Special returns by taxpayers affected by reduced deductions under Income Tax Act 1994	11
37	Definitions	11
38	Amount in nature of interest to be added to fringe benefit tax paid on annual or income year basis	11

39	New 165AA inserted	11
	165AA Recovery of tax paid by superannuation fund	11
40	Obligation to pay tax on foreign investment fund income able to be suspended	12

**Part 3**

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

41	Goods and Services Tax Act 1985	12
42	Adjustments	13

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Taxation (FBT, SSCWT and Remedial Matters) Act 2000.
  
- 2 Commencement**  
This Act comes into force on the date on which it receives the Royal assent.

**Part 1**

**Amendments to Income Tax Act 1994**

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

- 3 Income Tax Act 1994**  
*[Repealed]*  
Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
  
- 4 Certain compensation, benefits, and other payments are gross income**  
*[Repealed]*  
Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**5 Meaning of term dividends***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**6 Interpretation***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**7 What constitutes an interest in a foreign investment fund***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**8 Use of alternative methods***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**9 Deemed rate of return method of calculation***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**10 Treatment of circumstances of entry into or exit from foreign investment fund regime***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**11 Meaning of fringe benefit***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**13 Value of fringe benefit***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**14 Taxable value of fringe benefit***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**15 Exemption for minor unclassified benefits***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**16 Adjustment on amalgamation to exemption for minor unclassified benefits***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**17 Application of other provisions to fringe benefit tax***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**18 Use of test period to establish private use of motor vehicle***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**19 New headings and sections CL 3 to CL 21 inserted***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**20 New sections EN 6 and EN 7 inserted***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**21 Value of motor vehicle acquired from associated person***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**22 Credits and debits arising to branch equivalent tax account of person***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**23 Replacement of Part ND***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**24 Specified superannuation contribution withholding tax imposed***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**25 New section NE 2AA inserted***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**26 Specified superannuation contribution withholding tax to be deducted***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**27 Tax deemed for certain purposes to have been received by superannuation fund***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**28 New subpart EA inserted***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**29 Definitions***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**30 References to income years in particular provisions***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**31 Schedule 1—Basic rates of income tax and specified superannuation contribution withholding tax***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**32 Schedule 2—Fringe benefit values***[Repealed]*

Part 1 ( sections 3 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**Part 2****Tax Administration Act 1994****33 Tax Administration Act 1994**

This Part amends the Tax Administration Act 1994.

**34 Interpretation**

- (1) In section 3(1), in the definition of **employer**, “sections 47, 120S of this Act” is replaced by “section 47”.
- (2) In section 3(4)(b), “Sections 93, 120S,” is replaced by “Sections 93”.
- (3) In section 3(4)(b), “section ND 4” is replaced by “section ND 14”.

- (4) Subsections (1) and (2) apply—
- (a) on and after 1 April 2001, for an employer who pays fringe benefit tax on an annual basis; and
  - (b) to the 2001-2002 and subsequent income years, for an employer who pays fringe benefit tax on an income year basis.
- (5) Subsection (3) applies on and after 1 April 2000.

**35 New sections 32A to 32C inserted**

- (1) After section 32, the following is inserted:

**“32A Records to be provided by employer who contributes to superannuation fund**

- “(1) Upon the request of a member or a trustee of a superannuation fund acting on a member’s behalf, a member’s employer, or a member’s past employer, must provide the member or trustee with a record of all specified superannuation contributions made by the employer on the member’s behalf in each of the 4 income years before the income year in which a withdrawal, being one to which section CL 4 of the Income Tax Act 1994 applies, is made.
- “(2) A request must be made in writing.
- “(3) A person who receives a request must provide the information requested, to the extent it is held or can be accessed, no later than 20 working days after the date on which the request is made.
- “(4) When calculating the superannuation fund’s gross income under section CL 4 of the Income Tax Act 1994, the member and the trustee are entitled to rely on information provided under this section as being correct, and the information provided is treated as being correct unless the member or the trustee has reasonable grounds for believing that the information provided is not correct.

**“32B Certification requirements for withdrawals subject to section CL 4 of Income Tax Act 1994**

- “(1) The trustee of a superannuation fund may request the following information from a member or a member’s employer, or a



member's past employer, in respect of an income year or part of an income year:

- “(a) the amount of specified superannuation contributions made by an employer:
  - “(b) the amount of specified superannuation contributions that have been subject to specified superannuation contribution withholding tax at the rate specified in Schedule 1, Part A, clause 10(a):
  - “(c) the amount of specified superannuation contributions that have been treated as salary or wages under section NE 2A:
  - “(d) the taxable income that the member derived in the 4 income years before the income year in which a withdrawal is made:
  - “(e) evidence to support an application for a withdrawal that is necessary to alleviate significant financial hardship:
  - “(f) the date on which a member ceases employment:
  - “(g) whether a member was employed for less than 2 years:
  - “(h) whether a member is employed for 30 hours per week or less:
  - “(i) whether a member has reduced their working hours because the member is nearing full retirement:
  - “(j) whether a member has stopped contributing to a superannuation fund:
  - “(k) whether a member's employer has stopped making specified superannuation contributions to a superannuation fund on the member's behalf:
  - “(l) whether specified superannuation contributions made to a superannuation fund have increased in accordance with a trust deed or a contract, or an amendment to a trust deed or a contract, in existence before 1 April 2000, and if so, the extent of the increase:
  - “(m) any other information required to determine the superannuation fund's gross income under section CL 4 of the Income Tax Act 1994.
- “(2) A request must be made in writing.
- “(3) A person who receives a request must provide the information requested, to the extent it is held or can be accessed, no later

than 20 working days after the date on which the request is made.

- “(4) When calculating the superannuation fund’s gross income under section CL 4 of the Income Tax Act 1994, the trustee is entitled to rely on information provided under this section as being correct, and the information provided is treated as being correct unless the trustee has reasonable grounds for believing that the information provided is not correct.

**“32C Certification requirements for transfers from superannuation funds**

- “(1) The trustee of a superannuation fund that receives an amount from another superannuation fund may request the following information from the trustee of the transferor fund in respect of an income year or part of an income year:
- “(a) amounts transferred that, if withdrawn, would be subject to any one of paragraphs (a) to (d) of section CL 3(1) of the Income Tax Act 1994:
  - “(b) amounts transferred that are employer contributions to superannuation savings:
  - “(c) any information previously supplied to the transferor fund by a superannuation fund from which a member has transferred:
  - “(d) any other information required to determine the transferee fund’s gross income under section CL 4 of the Income Tax Act 1994.
- “(2) A request must be made in writing.
- “(3) A trustee who receives a request must provide the information requested, to the extent it is held or can be accessed, no later than 40 working days after the date on which the request is made.
- “(4) When calculating the transferee superannuation fund’s gross income under section CL 4 of the Income Tax Act 1994, the trustee is entitled to rely on information provided under this section as being correct, and the information provided is treated as being correct unless the trustee has reasonable grounds for believing that the information provided is not correct.”

- (2) Subsection (1) applies on and after 14 September 2000.

**36 Special returns by taxpayers affected by reduced deductions under Income Tax Act 1994**

- (1) In section 44A(1), “net income” is replaced by “taxable income”.
- (2) Subsection (1) applies on and after 17 November 1998.

**37 Definitions**

- (1) In section 120C(1), in paragraph (b) of the definition of **date interest starts**, the portion before subparagraph (i) is replaced by:
- “(b) for overpaid tax, other than GST or fringe benefit tax for the final quarter of an income year, means the later of the following days—”.
- (2) In section 120C(1), at the end of paragraph (c)(iii) of the definition of **date interest starts**, “made:” is replaced by “made; and” and the following is inserted:
- “(d) for overpaid tax, being fringe benefit tax for the final quarter of an income year, means the later of 31 May next following the end of the final quarter and the date on which the return for the final quarter is filed.”
- (3) Subsections (1) and (2) apply on and after 1 April 2000.

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

- (1) Section 120S is repealed.
- (2) Subsection (1) applies—
- (a) on 1 April 2001, for an employer who pays fringe benefit tax on an annual basis; and
- (b) to the 2001-2002 income year, for an employer who pays fringe benefit tax on an income year basis.

**39 New 165AA inserted**

- (1) After section 165, the following is inserted:
- “165AA Recovery of tax paid by superannuation fund**
- “(1) If a withdrawal is made in respect of a person’s membership in a superannuation fund and the withdrawal is one to which

section CL 4 of the Income Tax Act 1994 applies, the trustee of the superannuation fund may recover from the member or the other person making the withdrawal an amount according to the formula in subsection (2).

“(2) The formula is:

$$\text{tax rate} \times \text{gross income}$$

where

tax rate is the basic rate of income tax stated in Schedule 1, Part A, clause 4 of the Income Tax Act 1994:

gross income is the amount of gross income of the superannuation fund under section CL 4 of the Income Tax Act 1994.

“(3) A trustee of a superannuation fund may recover an amount from the member or the other person making the withdrawal irrespective of the superannuation fund’s trust deed.

“(4) For the purpose of section 165, a trustee is treated as paying tax on a withdrawal to which section CL 4 of the Income Tax Act 1994 applies on behalf of the member or the other person who made the withdrawal.”

(2) Subsection (1) applies on and after 14 September 2000.

#### **40 Obligation to pay tax on foreign investment fund income able to be suspended**

(1) In section 183(2), “120S” is replaced by “120T”.

(2) Subsection (1) applies to tax obligations, liabilities and rights that are to be performed under or arise in respect of the 1997-98 and subsequent income years.

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

#### **41 Goods and Services Tax Act 1985**

This Part amends the Goods and Services Tax Act 1985.

**42 Adjustments**

- (1) In section 21(4), “section ND 2 or section ND 3 or section ND 4” is replaced by “any one of sections ND 9, ND 10, ND 13 or ND 14”.
- (2) Subsection (1) applies on and after 1 April 2000.

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**Legislative history**

27 March 2000	Introduction (Bill 11-1)
30 March 2000	First reading and referral to Finance and Expenditure Committee
31 July 2000	Reported from Finance and Expenditure Committee (Bill 11-2)
24 August 2000	Second reading
14, 19 September 2000	Committee of the whole House (Bill 11-3)
21 September 2000	Third reading

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