



ANALYSIS

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1990, No. 91

An Act to amend the Income Tax Act 1976

[8 August 1990]

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

1. Short Title and commencement—(1) This Act may be cited as the Income Tax Amendment Act (No. 3) 1990, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

(2) Except as otherwise provided in this Act, this Act shall come into force on the day on which it receives the Royal assent.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “income-tested benefit” (as inserted by section 2(2) of the Income Tax Amendment Act (No. 2) 1986), after the words “invalids’ benefit,”, the words “independent youth benefit, job search allowances,”.

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “leasehold estate”, the following definition:

“‘Living alone payment’ means a living alone payment paid or payable under section 18A of the Social Welfare (Transitional Provisions) Act 1990.”.

(3) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1990 and in every subsequent year.

3. Rebate in respect of gifts of money and payment of school fees—(1) Section 56A(4) of the principal Act (as inserted by section 9 of the Income Tax Amendment Act (No. 2) 1977 and amended by section 9 of the Income Tax Amendment Act 1984 and section 16 of the Income Tax Amendment Act 1982) is hereby amended—

(a) By omitting from paragraph (a) the expression “33 percent”, and substituting the expression “33¹/₃ percent”:

(b) By omitting from paragraph (b) the expression “\$200”, and substituting the expression “\$500”.

(2) The following enactments are hereby consequentially repealed:

(a) Section 16 (1) (b) of the Income Tax Amendment Act 1982:

(b) Section 9 (1) (c) of the Income Tax Amendment Act 1984.

(3) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1990 and in every subsequent year.

4. Items included in assessable income—(1) Section 65 (2) of the principal Act is hereby amended by inserting, after paragraph (da), the following paragraph:

“(db) All living alone payments.”.

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1990 and in every subsequent year.

5. Valuation of bloodstock—(1) Section 86H(2) of the principal Act (as inserted by section 8(1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by repealing paragraph (a) (as substituted by section 24(1) of the Income Tax Amendment Act (No. 2) 1987), and substituting the following paragraph:

“(a) In relation to the first income year in which the bloodstock (being bloodstock which at the end of that income year is 2 years of age or older) is—

“(i) First used by the taxpayer for breeding purposes in the course of the conduct of the business by that taxpayer of breeding bloodstock; or

“(ii) Purchased with the intention of being used for breeding purposes by the taxpayer in the course of the conduct of the business by that taxpayer of breeding bloodstock; or

“(iii) Owned in the course of the conduct of the business of breeding bloodstock and that taxpayer has the intention of using that bloodstock for breeding purposes,—

the amount that remains after deducting from the cost price the specified write-down in relation to that bloodstock:”.

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

6. Certain deductions not permitted—(1) Section 106(1) of the principal Act is hereby amended by repealing paragraph (n) (as inserted by section 10(1) of the Income Tax Amendment Act (No. 4) 1986), and substituting the following paragraph:

“(n) Any expenditure or loss to the extent to which the Commissioner is satisfied it is incurred in—

“(i) Preparing any bloodstock for racing, other than any expenditure or loss incurred—

“(A) In the course of preparing that bloodstock for sale by a taxpayer who is in the business of breeding bloodstock and who does not race that bloodstock; or

“(B) By a taxpayer in exchange for consideration which is assessable income to that taxpayer; or

“(ii) Racing any bloodstock, or otherwise incurred in relation to the racing of any bloodstock:”.

(2) Section 10 of the Income Tax Amendment Act (No. 4) 1986 is hereby consequentially repealed.

(3) This section shall apply with respect to expenditure or loss incurred in the income year commencing on the 1st day of April 1991 and in every subsequent year.

7. New sections inserted—(1) The principal Act is hereby amended by repealing section 106B (as inserted by section 17 (1) of the Income Tax Amendment Act 1986), and substituting the following sections:

“106B. **Deductions for motor vehicle expenses—**

(1) Except as provided in this section,—

“(a) No deduction in relation to expenditure incurred by a taxpayer in respect of or in relation to a motor vehicle used in gaining or producing assessable income of a taxpayer in any year shall be allowed under section 104 of this Act in calculating that assessable income in that income year; and

“(b) No allowances by way of depreciation in respect of or in relation to any such motor vehicle shall be allowed under section 108 of this Act in calculating the taxpayer’s assessable income in that income year.

“(2) Nothing in this section or in sections 106C to 106E of this Act shall apply to disallow any deduction or allowance by way of depreciation—

“(a) In relation to a motor vehicle that is not used for any purpose other than—

“(i) The gaining or producing of assessable income; or

“(ii) A purpose that constitutes a fringe benefit as defined in section 336N (1) of this Act; or

“(b) To a taxpayer who is—

“(i) A company; or

“(ii) A person whose sole income is income from employment within the meaning of section 105 of this Act.

“(3) Where in any income year a motor vehicle is used by a taxpayer partly for business purposes and partly for other purposes,—

“(a) There shall be allowed as a deduction in that income year such proportion of all expenditure incurred by the taxpayer in relation to the motor vehicle as

reflects the proportion of business use of the vehicle to its total use in that income year, as that business use proportion is determined in accordance with sections 106c to 106E of this Act; and

“(b) The Commissioner shall allow in respect of that vehicle an amount by way of depreciation that reflects the proportion of business use of the vehicle to its total use during that income year, as so determined.

“(4) In this section and in sections 106c to 106E of this Act,—

“ ‘Business purposes’, or ‘business use’, in relation to the use of a motor vehicle and to a taxpayer, means travel undertaken by the vehicle wholly and exclusively in the gaining or producing of the assessable income of the taxpayer:

“ ‘Motor vehicle’ means a motor vehicle that is a road vehicle (other than a trailer), whenever or however used, of the kind ordinarily used for the carriage of persons or the transport or delivery of goods or animals.

“(5) Every reference in this section or in sections 106c to 106E of this Act to an income year shall, where the taxpayer furnishes a return of income under section 15 of this Act for an accounting year ending with an annual balance date other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year, and in every such case this section and those sections shall, with any necessary modifications, apply accordingly.

“106c. Use of actual records to establish business use proportion of motor vehicle—(1) Where a taxpayer maintains complete and accurate details to the satisfaction of the Commissioner of the reasons for and distance of journeys undertaken by a motor vehicle for business purposes, and such other details as may be required by the Commissioner, those details shall, subject to subsection (2) of this section, be used for the purposes of section 106B (3) of this Act to calculate that proportion of the travel of the vehicle undertaken for business purposes during the period to which those details apply.

“(2) The details referred to in subsection (1) of this section shall not be used to calculate the business use proportion of a motor vehicle to the extent that the period for which the details are kept falls within a logbook application period within the meaning of section 106D of this Act, unless the taxpayer and the Commissioner agree that the details should be so used.

“106D. Use of logbook to establish business use proportion of motor vehicle—(1) Subject to the provisions of this section, where a taxpayer maintains in relation to any motor vehicle—

“(a) A logbook that complies with the requirements of subsection (2) of this section; and

“(b) A record of the total distance travelled during every income year or part of an income year that falls within the logbook application period determined in relation to the logbook under subsection (3) of this section,—

the details of the logbook and record so maintained shall be used for the purposes of subsection 106B(3) of this Act to calculate the business use proportion of the motor vehicle in respect of any income year or part of an income year that falls within that logbook application period.

“(2) A logbook referred to in subsection (1) (a) of this section shall—

“(a) Be kept for a period of not less than 90 consecutive days, commencing on a date elected by the taxpayer; and

“(b) Record complete and accurate details of the reasons for and the distance of journeys undertaken for business purposes, and such other details as may be required by the Commissioner; and

“(c) Record the total distance travelled by the motor vehicle during the period the logbook is maintained; and

“(d) Be kept for a period that represents or is likely to represent the average proportion of travel, for business purposes and for purposes other than business purposes, of that motor vehicle for the logbook application period.

“(3) The logbook application period to which any business use proportion calculated from the details of a logbook kept under this section applies shall be a period not exceeding 3 years that—

“(a) Starts on whichever of the following days (not being a day that occurs later than the first day of the period during which the logbook is maintained) is the latest:

“(i) The first day of the income year commencing on the 1st day of April 1991:

“(ii) The first day of the income year in which the taxpayer commences to keep the logbook:

“(iii) The day on which the motor vehicle to which the logbook relates (not being a replacement motor

vehicle referred to in subsection (5) of this section) was purchased or acquired by the taxpayer:

“(iv) The day immediately following the last day of the preceding log period:

“(v) A day specified by the taxpayer; and

“(b) Subject to subsection (4) of this section, ends on whichever of the following days is the earliest:

“(i) The day on which the motor vehicle is sold or otherwise disposed of and is not replaced by another motor vehicle:

“(ii) A day specified by the taxpayer:

“(iii) A day specified by the Commissioner under subsection (7) (a) of this section:

“(iv) The day being 3 years after the first day of the income year in which the logbook application period commenced under paragraph (a) of this subsection.

“(4) Where in any month during a logbook application period—

“(a) The business use proportion of the motor vehicle in that month is 20 or more percentage points less than the business use proportion established by the logbook; and

“(b) The business use proportion established by the logbook no longer fairly represents the average proportion of travel, for business purposes and purposes other than business purposes, of the vehicle,—

that logbook application period shall end on the last day of that month.

“(5) Where a taxpayer replaces a motor vehicle with another motor vehicle and—

“(a) The logbook kept and retained in relation to the replaced vehicle is, or is likely to be, representative of the average travel, for business purposes and purposes other than business purposes, of the vehicle during the remainder of the logbook application period; and

“(b) From the day of replacement the taxpayer has maintained a record of the total distance travelled by the replacement vehicle during each income year or part of an income year that falls within the remainder of the logbook application period—

then this section shall apply to the replacement vehicle as if it were the same vehicle as that to which the logbook originally related.

“(6) Where the Commissioner is satisfied that a logbook maintained in relation to a motor vehicle is not or is no longer representative of the average travel for business purposes and for purposes other than business purposes of the motor vehicle during any income year to which the logbook applies, the Commissioner may—

“(a) Notwithstanding anything in subsection (3) of this section, specify another 90-day period, being a period within the logbook application period, in which the taxpayer is to maintain a logbook for that motor vehicle; or

“(b) Deem the taxpayer to have not maintained a logbook in relation to that logbook application period.

“(7) Where in accordance with subsection (6) of this section the Commissioner has required a further logbook in relation to a logbook application period to be maintained, and that proportion of the total travel of the motor vehicle undertaken for business purposes calculated in relation to that further logbook is 20 or more percentage points less than the proportion calculated in relation to the first logbook then,—

“(a) Where the Commissioner considers that the first logbook maintained by the taxpayer in relation to that logbook application period was representative of the average travel, for business purposes and for purposes other than business purposes, of the motor vehicle during part of the logbook application period, but is no longer so representative,—

“(i) The Commissioner may determine a day on which that logbook application period ended; and

“(ii) The further logbook shall be deemed to have a logbook application period commencing on the day following the day determined by the Commissioner under subparagraph (i) of this paragraph; or

“(b) Where paragraph (a) of this subsection does not apply, the Commissioner may direct that the further logbook shall apply for the logbook application period to which the first logbook originally applied.

“106E. **Business use proportion of motor vehicle where no logbook or details maintained**—Where, in respect of any taxpayer and any period,—

“(a) The period is not a logbook application period to which the business use proportion of a vehicle established

by a logbook maintained under section 106D of this Act can be applied; and

“(b) The taxpayer has not maintained for that period the details referred to in section 106c of this Act,—
for the purposes of section 106B of this Act the business use proportion of the motor vehicle for that period shall be limited to the proportion of actual business use or 25 percent of total use of the motor vehicle, whichever is less, during the relevant period.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 17 of the Income Tax Amendment Act 1986:

(b) Section 9 of the Income Tax Amendment Act 1988:

(c) Section 36 of the Income Tax Amendment Act (No. 5) 1988.

(3) This section shall apply in respect of the tax on income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

8. Revised assessments where land or fish farms or certain assets are sold within 10 years of acquisition after deductions in respect of certain expenditure—Section 129 of the principal Act (as substituted by section 23 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by inserting, before subsection (1), the following subsection:

“(A1) This section shall not apply in respect of any profit or gain derived by any person from the sale or disposition of any land or any asset where that sale or disposition occurs after the 24th day of July 1990.”

9. Gifts of money by public companies—(1) Section 147 of the principal Act (as amended by section 23 of the Income Tax Amendment Act (No. 3) 1983) is hereby amended by omitting paragraph (a) of the proviso to subsection (2), and substituting the following paragraph:

“(a) In respect of the aggregate of all gifts made in that income year by any public company to any one donee, shall not exceed the greater of—

“(i) One percent of the company’s assessable income; or

“(ii) \$4,000; and”.

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1990 and in every subsequent year.

10. Income equalisation reserve deposits—Section 176 (2) of the principal Act is hereby amended by omitting the first sentence, and substituting the following sentence:

“Every amount received by the Commissioner from any taxpayer under this section shall be deemed to be public money and shall be paid into a Crown Bank Account in accordance with the Public Finance Act 1989, such account to be known as the Income Equalisation Reserve Account, and shall be entered in an income equalisation reserve account to be kept by the Commissioner in the name of the taxpayer.”

11. General provisions as to refunds—Section 185 of the principal Act is hereby amended by adding the following subsection:

“(6) Every refund made under sections 179 to 184 of this Act (including any interest payable under section 177 of this Act) shall be made without further appropriation than this subsection.”

12. Loss incurred in specified activities—Section 188A of the principal Act (as inserted by section 32 of the Income Tax Amendment Act (No. 2) 1982) is hereby amended—

(a) By adding to subsection (7) the following further proviso:

“Provided further that this subsection shall not apply in respect of any loss incurred by any taxpayer in the income year that commenced on the 1st day of April 1990 or in any subsequent year in the conduct of any specified activity referred to in paragraph (i) of the definition of the expression ‘specified activity’ in subsection (1) of this section.”

(b) By adding to subsection (7A) the following further proviso:

“Provided further that this subsection shall not apply in respect of any loss incurred by any taxpayer, being a company in a group of companies, in the income year that commenced on the 1st day of April 1990 or in any subsequent year in the conduct of any specified activity referred to in paragraph (i) of the definition of the expression ‘specified activity’ in subsection (1) of this section.”

13. Tax on income derived by Maori authorities for more than 20 beneficiaries—(1) Section 236 (2) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Distributed income, so far as the income of that year extends, and the Maori authority shall not be assessable and liable for income tax thereon; and”.

(2) This section shall apply in respect of the tax on income derived in the income year commencing on the 1st day of April 1990 and in every subsequent year.

14. Interpretation—guaranteed retirement income earner surcharge—(1) Section 336A of the principal Act (as inserted by section 17 of the Income Tax Amendment Act 1984) is hereby amended by inserting in item a of the formula in the definition of the term “net guaranteed retirement income” (as amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990), after the words “gross guaranteed retirement income”, the words “and gross living alone payment”.

(2) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

15. Determination of “other income”—(1) Section 336B (1) of the principal Act (as inserted by section 17 of the Income Tax Amendment Act 1984 and amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990) is hereby amended by inserting in item b of the formula, after the words “gross guaranteed retirement income”, the words “and gross living alone payment”.

(2) Section 336B (2) of the principal Act (as so inserted and amended, and as amended by section 2 of the Income Tax Amendment Act 1985 and section 29 of the Income Tax Amendment Act 1986) is hereby amended—

(a) By repealing item e of the formula, and substituting the following item:

“e is an amount equal to such part of the guaranteed retirement income earner’s taxable income, not including any amount of—

“(i) Guaranteed retirement income; or

“(ii) Living alone payment; or

“(iii) Specified foreign social security pension,—

in the income year as, in the opinion of the Commissioner, relates to sources of income

from which the guaranteed retirement income earner derived income (if any) during only the period in which guaranteed retirement income was payable to the guaranteed retirement income earner; and”:

(b) By repealing item g of the formula, and substituting the following item:

“g is an amount equal to such part of the guaranteed retirement income earner’s taxable income, not including any amount of—

“(i) Guaranteed retirement income; or

“(ii) Living alone payment; or

“(iii) Specified foreign social security pension,—

in the income year as, in the opinion of the Commissioner, relates to sources of income from which the guaranteed retirement income earner derived income (if any) during only the period in which guaranteed retirement income was not payable to the guaranteed retirement income earner; and”.

(3) The following enactments are hereby consequentially repealed:

(a) Section 2 (4) and (5) of the Income Tax Amendment Act 1985:

(b) Section 29 (2) (b) of the Income Tax Amendment Act 1986.

(4) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

16. Determination of “specified exemption”—

(1) Section 336BA (1) of the principal Act (as inserted by section 3 of the Income Tax Amendment Act 1985 and amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990 and as otherwise variously amended) is hereby amended—

(a) By inserting in paragraph (a), after the words “by reason of the guaranteed retirement income earner not

being married,” the words “whether or not a living alone payment was also received”:

- (b) By inserting in item i of the formula in paragraph (ba), after the words “not including any amount of guaranteed retirement income”, the words “and living alone payment”:
- (c) By inserting in paragraph (c) (as substituted by section 2 (1) of the Income Tax Amendment Act (No. 4) 1985), after the words “for a period not exceeding 13 weeks”, the words “whether or not a living alone payment was also received”:
- (d) By inserting in item f of the formula in paragraph (c) (as so substituted), after the words “any amount of guaranteed retirement income”, the words “or any living alone payment”:
- (e) By omitting from paragraph (d) the expression “other than 50 percent or, as the case may be, 60 percent of the married rate of national superannuation, or was at 60 percent of the married rate”, and substituting the words “other than the rate payable to a married person under paragraph (b) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, or as the case may be, the rate payable to an unmarried person under paragraph (a) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, or was a rate payable to an unmarried person”:
- (f) By omitting the expression “was at 60 percent of the married rate of national superannuation” in each place where it occurs, and substituting the words “was a rate payable to an unmarried person under paragraph (a) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990”:
- (g) By omitting the expression “was at 50 percent of the married rate of national superannuation” in each place where it occurs, and substituting the words “was a rate payable to a married person under paragraph (b) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990”.

(2) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

17. Election by guaranteed retirement income earner in respect of payment of surcharge—(1) Section 336F (1) of the principal Act (as inserted by section 17 of the Income Tax Amendment Act 1984 and amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990) is hereby amended by omitting the words “who at any time expects that he will, in respect of any income year,” and substituting the words “who at any time expects, in respect of any income year, to”.

(2) Section 336F of the principal Act (as so inserted and amended) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every election made by any guaranteed retirement income earner under subsection (1) of this section shall,—

“(a) Where that guaranteed retirement income earner estimates that the earner’s other income in that income year will consist of specified income only, be an election that the surcharge is to be paid—

“(i) By way of deductions in accordance with section 336G of this Act from payments of that earner’s gross guaranteed retirement income and (where appropriate) gross living alone payment made in that income year; or

“(ii) As provisional tax by that earner in accordance with Part XII of this Act:

“(b) Where that guaranteed retirement income earner estimates that the earner’s other income in that income year will consist of source deduction payments (other than guaranteed retirement income and living alone payment) only, be an election that the surcharge is to be paid—

“(i) By way of deductions in accordance with section 336G of this Act from payments of that earner’s gross guaranteed retirement income and (where appropriate) gross living alone payment made in that income year; or

“(ii) By way of deductions in accordance with section 336J of this Act from source deduction payments (other than guaranteed retirement income and living alone payment) made to that earner in that income year:

“(c) In any other case, be an election that the surcharge is to be paid—

“(i) By way of deductions in accordance with section 336G of this Act from payments of that

earner's gross guaranteed retirement income and (where appropriate) gross living alone payment made in that income year; or

“(ii) In accordance with section 336K of this Act both by way of deductions from source deduction payments (other than guaranteed retirement income and living alone payment) made to that earner in that income year and as provisional tax paid by that earner.”

(3) Section 336F (3) of the principal Act (as so inserted and amended) is hereby amended by omitting the word “his”, and substituting the words “the guaranteed retirement income earner’s”.

(4) The following enactments are hereby consequentially repealed:

(a) Section 20 of the Income Tax Amendment Act 1986:

(b) Section 32 (2) of the Income Tax Amendment Act (No. 2) 1989.

(5) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

18. Surcharge deductions from guaranteed retirement income—(1) The principal Act is hereby amended by repealing section 336C (as inserted by section 17 of the Income Tax Amendment Act 1984 and amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990), and substituting the following section:

“336C. (1) This section shall apply only where a guaranteed retirement income earner has elected in accordance with paragraph (a) (i) or paragraph (b) (i) or paragraph (c) (i) of section 336F (2) of this Act to have the surcharge paid by way of deductions from payments of that earner's gross guaranteed retirement income and (where appropriate) gross living alone payment made in that income year.

“(2) The Director-General of Social Welfare shall—

“(a) At the time of making any payment of guaranteed retirement income and (where appropriate) living alone payment to a guaranteed retirement income earner, make a surcharge deduction from any such payment of an amount determined by the Commissioner under section 336H of this Act; and

“(b) Pay every surcharge deduction so made to the Commissioner in the same manner as if it were a tax deduction to which Part XI of this Act applies.”

(2) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

19. Guaranteed retirement income earner to estimate other income—(1) The principal Act is hereby amended by repealing section 336H (as inserted by section 17 of the Income Tax Amendment Act 1984 and amended by section 31 of the Income Tax Amendment Act 1986 and section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990), and substituting the following section:

“336H. (1) Where, in respect of any income year, a guaranteed retirement income earner elects in accordance with paragraph (a) (i) or paragraph (b) (i) or paragraph (c) (i) of section 336F (2) of this Act to have the surcharge paid by way of deductions from payments of that earner’s gross guaranteed retirement income and (where appropriate) gross living alone payment made in that income year, that earner shall provide to the Commissioner, as soon as practicable after the making of that election, an estimate of the other income the earner expects to derive during that income year together with a statement as to the amount of guaranteed retirement income and (as appropriate) the amount of living alone payment the earner expects to receive in that income year.

“(2) For the purposes of providing the Commissioner with an estimate of the guaranteed retirement income earner’s other income and a statement of the earner’s expected amount of guaranteed retirement income and (if appropriate) living alone payment in accordance with subsection (1) of this section, a guaranteed retirement income earner shall enter that estimate and indicate that amount on a prescribed form and deliver that form to the Commissioner.

“(3) On receipt of the prescribed form of any guaranteed retirement income earner under subsection (2) of this section, the Commissioner shall determine in accordance with the tenor of this Part of this Act the amount of the surcharge deduction to be made from future payments of guaranteed retirement income and (where appropriate) living alone payment to that guaranteed retirement income earner, and shall advise the Director-General of Social Welfare accordingly.”

(2) Section 31 of the Income Tax Amendment Act 1986 is hereby consequentially repealed.

(3) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

20. Surcharge deductions from source deduction payments—(1) Section 336j (1) of the principal Act (as inserted by section 17 of the Income Tax Amendment Act 1984 and amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990) is hereby amended—

(a) By inserting after the words “other than guaranteed retirement income”, the words “and (where appropriate) living alone payment”:

(b) By omitting the word “him”, and substituting the words “the guaranteed retirement income earner”.

(2) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

21. Surcharge deductions from source deduction payments and surcharge paid as provisional tax—(1) The principal Act is hereby amended by repealing section 336k (as inserted by section 17 of the Income Tax Amendment Act 1984), and substituting the following section:

“336k. (1) This section shall apply only where a guaranteed retirement income earner has elected in accordance with section 336f (2) (c) (ii) of this Act to have the surcharge paid both by way of deductions from source deduction payments (other than guaranteed retirement income and, where appropriate, living alone payment) made to the guaranteed retirement income earner in any income year and as provisional tax paid by the guaranteed retirement income earner.

“(2) Where the total amount of a guaranteed retirement income earner’s expected specified income exceeds the total amount of that earner’s expected source deduction payments (other than guaranteed retirement income and, where appropriate, living alone payment), the surcharge payable in respect of the source deduction payments (other than

guaranteed retirement income and, where appropriate, living alone payment) shall be paid in the following manner:

“(a) The surcharge code ‘MIN’ shall be used in respect of every such source deduction payment paid to the guaranteed retirement income earner; and

“(b) The person by whom any such source deduction payment is made shall make the surcharge deduction therefrom, and pay the deduction to the Commissioner as if it were a deduction to which section 336j (2) of this Act applies.

“(3) Where the total amount of a guaranteed retirement income earner’s expected specified income does not exceed the total amount of that earner’s expected source deduction payments (other than guaranteed retirement income and, where appropriate, living alone payment), the surcharge payable in respect of the source deduction payments (other than guaranteed retirement income and, where appropriate, living alone payment) shall be paid in the following manner:

“(a) Where guaranteed retirement income is to be paid to the guaranteed retirement income earner at a rate payable to an unmarried person under paragraph (a) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, whether or not a living alone payment is paid, the surcharge code ‘SAJ’ shall be used in respect of the largest such source deduction payment and the surcharge code ‘MIN’ shall be used in respect of all other such source deduction payments; and

“(b) Where guaranteed retirement income is to be paid to the guaranteed retirement income earner at a rate payable to a married person under paragraph (b) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, the surcharge code ‘MAJ’ shall be used in respect of the largest such source deduction payment and the surcharge code ‘MIN’ shall be used in respect of all other such source deduction payments; and

“(c) Notwithstanding anything in paragraphs (a) and (b) of this subsection, a special surcharge code may be used in respect of any such source deduction payment; and

“(d) The person by whom any such source deduction payment is made shall make the surcharge deduction therefrom, and pay the deduction to the

Commissioner as if it were a deduction to which section 336j (2) of this Act applies.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 4 (2) of the Income Tax Amendment Act 1985:

(b) Section 32 (3) and (4) of the Income Tax Amendment Act (No. 2) 1989.

(3) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

22. Application of surcharge codes specified in tax code declarations—(1) The principal Act is hereby amended by repealing section 336L (as inserted by section 17 of the Income Tax Amendment Act 1984), and substituting the following section:

“336L. (1) Subject to section 336K of this Act, the surcharge code of any guaranteed retirement income earner in respect of any source deduction payment (other than guaranteed retirement income and, where appropriate, living alone payment) shall be such one of the following codes as applies to that earner in respect of that source deduction payment in accordance with this section, namely:

“(a) ‘SAJ’, signifying a guaranteed retirement income earner who is to be paid guaranteed retirement income at a rate payable to an unmarried person under paragraph (a) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, whether or not a living alone payment is made, and who has no other source deduction payment exceeding in amount that source deduction payment:

“(b) ‘MAJ’, signifying a guaranteed retirement income earner who is to be paid guaranteed retirement income at a rate payable to a married person under paragraph (b) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990 and who has no other source deduction payment exceeding in amount that source deduction payment:

“(c) ‘MIN’, signifying a guaranteed retirement income earner who has another source deduction payment to which the surcharge code ‘MAJ’ or ‘SAJ’ applies:

“(d) Notwithstanding anything in paragraphs (a), (b), and (c) of this subsection, a special surcharge code may be used in respect of any such source deduction payment.

“(2) In calculating the surcharge deduction to be made from any source deduction payment (other than guaranteed retirement income and, where appropriate, living alone payment) made to a guaranteed retirement income earner, where that guaranteed retirement income earner has specified that that earner’s surcharge code is “SAJ” in respect of that source deduction payment, the amount of that source deduction payment shall, for the purpose of calculating the surcharge deduction, be reduced by an amount equal to, where the pay period for that source deduction payment is a period of—

“(a) One day, the amount of \$27.70:

“(b) One week, the amount of \$138.50:

“(c) Two weeks, the amount of \$277.00:

“(d) Three weeks, the amount of \$415.50:

“(e) Four weeks, the amount of \$554.00:

“(f) One month, the amount of \$600.00:

“(3) In calculating the surcharge deduction to be made from any source deduction payment (other than guaranteed retirement income and, where appropriate, living alone payment) made to a guaranteed retirement income earner, where that guaranteed retirement income earner has specified that that earner’s surcharge code is “MAJ” in respect of that source deduction payment, the amount of that source deduction payment shall, for the purpose of calculating the surcharge deduction, be reduced by an amount equal to, where the pay period for that source deduction payment is a period of—

“(a) One day, the amount of \$23.10:

“(b) One week, the amount of \$115.50:

“(c) Two weeks, the amount of \$231.00:

“(d) Three weeks, the amount of \$346.50:

“(e) Four weeks, the amount of \$462.00:

“(f) One month, the amount of \$500.00.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 4 (3) and (4) of the Income Tax Amendment Act 1985:

(b) Section 33 (1) of the Income Tax Amendment Act 1986:

(c) Section 9 (2) and (3) of the Income Tax Amendment Act (No. 3) 1988.

(3) This section shall apply to the guaranteed retirement income earner surcharge in respect of the other income of every guaranteed retirement income earner for the income year that commenced on the 1st day of April 1990 and for every subsequent income year.

23. Payment of tax deductions to Commissioner—

(1) Section 353 (1) of the principal Act (as substituted by section 23 (1) of the Income Tax Amendment Act (No. 2) 1986) is hereby amended by omitting from both subparagraph (i) and subparagraph (ii) of paragraph (ac) (as inserted by section 34 (2) of the Income Tax Amendment Act (No. 4) 1989) the expression "\$50,000", and substituting in each case the expression "\$100,000".

(2) This section shall apply with respect to deductions required to be made on and after the 1st day of July 1991.

24. Assessment and payment of tax—(1) Section 361 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

"(2) All income tax payable under any assessment made in accordance with subsection (1) of this section and not previously due and payable shall be due and payable on the 20th day of the eighth month following that taxpayer's balance date, or on such earlier date as is specified in the notice of assessment."

(2) This section shall apply in respect of income tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

25. Interpretation—provisional tax—(1) Section 375 of the principal Act (as substituted by section 17 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by repealing the definition of the term "provisional taxpayer" (as substituted by section 16 (1) of the Income Tax Amendment Act (No. 2) 1989), and substituting the following definition:

" 'Provisional taxpayer', in relation to any income year, means any person who is liable to pay residual income tax for that income year of an amount exceeding \$2,500, other than—

"(a) A company that does not have a fixed establishment in New Zealand and that is not deemed to be resident in New Zealand; or

"(b) A pay period taxpayer:"

(2) Section 375 of the principal Act (as so substituted) is hereby amended by repealing paragraph (b) of the definition of the term “residual income tax” (as amended by section 16 (11) of the Social Welfare (Transitional Provisions) Act 1990), and substituting the following paragraph:

“(b) The amount of the guaranteed retirement income surcharge paid by way of surcharge deductions from—

“(i) Payments of guaranteed retirement income and living alone payment made to the person in the income year, in accordance with section 336G of this Act:

“(ii) Source deduction payments (other than guaranteed retirement income and living alone payment), in accordance with section 336J or section 336K of this Act.”.

(3) This section shall apply in respect of provisional tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

26. Amount of provisional tax—(1) Section 377 of the principal Act (as substituted by section 17 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Notwithstanding subsection (1) of this section, a provisional taxpayer shall be relieved from the obligation to pay provisional tax in respect of the income derived in any income year where that taxpayer was not liable to pay residual income tax exceeding the sum of \$2,500 for the immediately preceding income year.”

(2) This section shall apply in respect of provisional tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

27. Estimated provisional tax—(1) Section 382 of the principal Act (as substituted by section 17 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where for any income year a taxpayer is, or expects to be, liable to pay residual income tax exceeding \$300,000, the taxpayer shall, on or before the day on which the final instalment of provisional tax becomes due and payable, make an estimate of the residual income tax for which the taxpayer

will be liable in that income year and furnish to the Commissioner a statement showing the amount so estimated.”

(2) Section 382 of the principal Act (as so substituted) is hereby further amended by inserting, after subsection (5), the following subsection:

“(5A) Any taxpayer who has furnished any estimate or re-estimate in accordance with the provisions of this section shall ensure that the estimate or re-estimate is a fair and reasonable estimate of the residual income tax for which that taxpayer will be liable in that income year.”

(3) Subsection (1) of this section shall apply in respect of provisional tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

28. Assessment and payment of terminal tax—

(1) Section 388 of the principal Act (as substituted by section 17 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Notwithstanding section 361 (2) of this Act, all income tax payable by any person in accordance with subsection (1) of this section, and not previously due and payable, shall—

“(a) If that person is a natural person to whom section 377 (2) of this Act applies, be due and payable on the 20th day of the eighth month following that taxpayer’s balance date; or

“(b) If that person is not a person to whom paragraph (a) of this section applies, be due and payable on the 7th day of the month specified in the Eighth Schedule to this Act as the month for payment of terminal tax.”

(2) This section shall apply in respect of provisional tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

29. Payment of tax—(1) Section 395 of the principal Act (as inserted by section 43 of the Income Tax Amendment Act (No. 2) 1989) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Income tax payable by any person and not otherwise due and payable under this Act shall be due and payable—

“(a) If that person is not a natural person, on the 7th day of the month specified in the Eighth Schedule to this Act as the month for payment of terminal tax; or

“(b) If that person is a natural person, on the 20th day of the eighth month following that taxpayer’s balance date.”

(2) This section shall apply in respect of income tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

30. Interest to be charged where residual income tax exceeds provisional tax—(1) Section 398A (3) of the principal Act (as inserted by section 19 of the Income Tax Amendment Act (No. 4) 1989) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Who was liable to pay, for that income year, residual income tax not exceeding \$30,000; and”

(2) This section shall apply in respect of income tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

31. Interest on tax overpaid—(1) Section 413A (3) of the principal Act (as inserted by section 20 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Who was liable to pay, for that income year, residual income tax not exceeding \$30,000; and”

(2) This section shall apply in respect of income tax payable in relation to income derived in the income year commencing on the 1st day of April 1991 and in every subsequent year.

32. First Schedule amended—(1) Part A of the First Schedule to the principal Act is hereby amended by repealing clause 3 (as amended by section 11 (1) (b) of the Finance Act 1989), and substituting the following clause:

“3. **Maori authorities**—The basic rate of tax for any income assessable to a Maori authority under section 236 of this Act shall be 25c for every \$1 of taxable income, being undistributed income.”

(2) Section 11 (1) (b) of the Finance Act 1989 is hereby consequentially repealed.

(3) This section shall apply in respect of the tax on income derived in the income year commencing on the 1st day of April 1990 and in every subsequent year.

33. Rates of retirement tax—The principal Act is hereby amended by repealing the Twentieth Schedule (as inserted by section 3 (2) of the Income Tax Amendment Act (No. 3) 1989),

and substituting the new Twentieth Schedule set out in the Schedule to this Act.

34. Accident Compensation Act 1982 consequentially amended—Section 44 of the Accident Compensation Act 1982 is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) In this section the term ‘due date’, in relation to a levy calculated in accordance with subsection (3) of this section, means the day for payment that, in relation to the statement of earnings referred to in subsection (2) of this section from which that levy is calculated, is the day on which income tax not otherwise due and payable is due and payable by the self-employed person as specified in section 388 or section 395 of the Income Tax Act 1976.”

SCHEDULE

Section 33

NEW TWENTIETH SCHEDULE SUBSTITUTED IN PRINCIPAL ACT

“TWENTIETH SCHEDULE

Section 275c(2)

ESTIMATED BASIC RATES OF RETIREMENT TAX

Year	Basic Rate in the \$1	Year	Basic Rate in the \$1
1991–92	7.5	2006–07	7.0
1992–93	7.5	2007–08	7.0
1993–94	7.5	2008–09	7.5
1994–95	7.5	2009–10	7.5
1995–96	7.5	2010–11	7.5
1996–97	7.5	2011–12	7.0
1997–98	7.5	2012–13	7.0
1998–99	7.5	2013–14	7.5
1999–2000	7.5	2014–15	7.5
2000–01	7.5	2015–16	7.5
2001–02	7.5	2016–17	7.5
2002–03	7.5	2017–18	7.5
2003–04	7.5	2018–19	7.5
2004–05	7.5	2019–20	7.5
2005–06	7.5	2020–21	8.0

The basic rates are rounded to the nearest 0.5c in the \$1”

This Act is administered in the Inland Revenue Department.
