

TAXATION (SIMPLIFICATION AND OTHER REMEDIAL MATTERS) BILL

EXPLANATORY NOTE

General Policy Statement

THIS portion of the explanatory notes provides a detailed analysis of the proposed amendments contained in the Bill.

Some of the remedial provisions in the Bill have retrospective application, to ensure that the intended policy of the provisions, as amended, applies to all taxpayers intended to be subject to the policy.

Clauses with retrospective effect are identified in the explanatory notes.

Unless the contrary is indicated, the amendments come into force on the date on which the Bill receives the Royal assent.

PART 1

AMENDMENTS TO TAX ADMINISTRATION ACT 1994

Tax simplification

In December 1997, the Government released a discussion document, *Simplifying Taxpayer Requirements*, which described how the tax return for wage and salary earners (the IR 5) could be removed and the PAYE system could be made both more accurate and simpler. Supporting amendments to the resident withholding tax and PAYE systems were proposed. A rebate claim form was also proposed.

Reduced return filing

Under the existing tax system many wage and salary earners are required to file an annual tax return showing income received throughout the year and rebates claimed. Inland Revenue assesses tax, credits any PAYE payments and/or rebates or deductions, and sends the wage and salary earner either a tax bill or refund. Currently, 1.2 million wage and salary earners file an IR 5 tax return. The compliance costs of this are estimated at 1.5 million hours per year.

The Bill proposes a significant extension in the non-filing threshold. Further, a \$200 threshold is introduced to allow for small errors. This prevents compliance costs being imposed if the revenue involved is small. It is expected that only half of the 1.2 million wage and salary earners who have annual contact with Inland Revenue will be required to continue to do so.

Income statements

If annual contact is required with a wage and salary earner the Bill proposes that an income statement be issued as a replacement to the IR 5 return. Income statements would mainly be sent to taxpayers who apply the PAYE or RWT systems incorrectly, or have a student loan, or are a non-custodial parent, or receive family assistance, or are entitled to receive it. The estimate is that approximately 600,000 taxpayers will receive an income statement with half of these taxpayers voluntarily requesting one to receive a tax refund. All wage and salary earners will have the right to request an income statement if one is not issued to them.

Taxpayers who do not receive an income statement from the Commissioner will be obliged to request one if they do not meet the non-filing criteria.

A taxpayer is required to check an income statement and to inform the Commissioner if it is not correct. A \$200 threshold applies to under-deducted wage, salary, interest and dividend income to prevent avoidable compliance costs being incurred when the revenue involved is small.

Non wage or salary earners who receive income that does not have tax deducted at source, such as business or rental income, will continue to be required to complete a tax return. This return will be issued, pre-printed, with the wage and salary income particulars of the taxpayer.

PAYE system

The PAYE system is being amended to require employers to provide Inland Revenue with a monthly schedule detailing each employee's salary and wage income, PAYE deductions and other information such as student loan repayments and child support payments. Employers who currently pay PAYE twice monthly to Inland Revenue will be required to provide this information electronically. However, an exemption, if electronic filing would cause undue compliance costs, has been introduced for employers with less than 100 employees in the 1999-2000 year. This exemption reduces to 50 employees in subsequent years. A penalty for failure to file, if required to do so, electronically is being introduced with remission for reasonable cause and if its remission will maximise net revenue.

The current year-end reconciliation undertaken by employers would cease. This process will remove the need for the production and distribution of over 4 million tax deduction certificates per annum, as well as the completion of 220,000 annual reconciliation forms.

Various measures to improve the accuracy of the PAYE system are introduced, such as clearer tax codes that will make it easier for taxpayers to select the correct PAYE code. Inland Revenue will use information received from employers to check the use of correct tax codes.

Given the increased reliance on the PAYE system, the non-declaration rate applying to wages and salaries is increased from 33 percent to 45 percent. This rate applies if an IRD number is not provided or if a tax code is not elected. The rate will not apply to those receiving various benefits. Beneficiaries will be required to provide an IRD number to the Director-General although an exemption will be provided for circumstances of sickness, injury, or disability. To reduce compliance costs and to avoid the unnecessary cessation of a benefit payment due to failure to provide an IRD number the Director-General of Social Welfare will be able to request a beneficiary's IRD number from Inland Revenue.

The tax codes for special circumstances, such as the casual agricultural workers code, are removed. Taxpayers in these circumstances will be treated similarly to other wage and salary earners.

The Commissioner will issue certificates of earnings on request. This will allow employees to check their PAYE details and allow the employee to calculate their tax liability and see if they are due a refund.

Resident withholding tax

Taxpayers will have the option of selecting a 33 percent withholding rate. This option allows those with income over \$38,000 to choose an RWT withholding rate which matches their marginal tax rate.

Rebates

A rebate claim form is introduced. This will remove the need to file a tax return to claim a rebate. The existing maximum and minimum thresholds would continue to apply. This proposal provides a process for delivering these rebates independently of the tax system and would also apply to individual return filers (IR 3). Given the form's simplicity, the rebate claim form would be due no later than 30 September following the year to which the claim relates.

The income cap will be based on the immediately preceding year's income.

To support this legislative change, rebate claim forms will be issued automatically to people who made a claim in the prior year.

The extra-pay rebate will be repealed.

Social policy measures

The non-filing threshold is extended beyond that proposed in the discussion paper in relation to child support and student loans. Wage and salary earners with a student loan repayment obligation with net income exceeding the student loan repayment threshold and interest and dividend income of less than \$200 will not be issued an income statement or be required to request one. Those wage and salary earners with a child support repayment obligation with interest or dividend income not exceeding \$200 will not be issued an income statement.

To prevent repeated requests for identification of children the Commissioner will allocate a tax file number to children in relation to whom Family Support and Child Support are being paid. The Commissioner will also have the authority to recover a Family Support overpayment from future payments of Family Support. This will be subject to the requirement that such recovery does not cause serious hardship.

PART 2

AMENDMENTS TO INCOME TAX ACT 1994

Group investment funds

Superannuation funds will be removed from the "designated sources" of a group investment fund. The effect is that investment by superannuation funds will no longer be subject to trust taxation. Instead it will be treated the same as all other investments in a group investment fund that are subject to company taxation.

Tax credit system

Superannuation funds and life offices will be prevented from crediting to their tax credit accounts imputation credits received from wholly-owned entities if the imputation credits relate to tax paid before commencement of the tax credit system. To reduce compliance costs, the proposed amendment will only apply if the wholly-owned entity has more than \$1 million of imputation credits at 31 March 1998. The amendment is deemed to apply from 1 April 1998, the commencement date of the tax credit system.

Remedial amendments

The Bill also contains a number of remedial amendments to the Income Tax Act 1994.

The tax treatment of judges and Members of Parliament is clarified by confirming that payments of salary and allowances made to them for carrying out their activities of office are subject to PAYE. This amendment also provides that such payments made to elected members of local authorities are subject to PAYE.

Three amendments are made to the thin-capitalisation rules:

The rules for determining the New Zealand parent of a company under the “controlled only by any other means whatsoever” test are clarified. The on-lending concession is extended to include certain loans to associated persons. Certain interest expenses that are deductible other than under the general interest deductibility rules in section DD 1 (1) are brought within the ambit of the thin-capitalisation rules.

The Bill removes an anomaly, which prevents certain shareholder-employees from receiving tax-free allowances.

The Bill amends the Low Income Rebate to provide that if the rebate is calculated as a result of grossing up the income, where the taxpayer has only been in New Zealand for part of the income year, it is reduced to reflect the number of days spent in New Zealand.

The Bill also ensures that no tax consequences result from a taxpayer creating a forestry right in favour of the taxpayer under the Forestry Rights Registration Act 1983.

PART 3

AMENDMENTS TO ACCIDENT REHABILITATION AND COMPENSATION INSURANCE ACT 1992

The Bill amends section 132 of the Accident Rehabilitation and Compensation Insurance Act 1992 to increase from \$5 to \$20 the small balance write-off for premiums.

PARTS 4 TO 9

AMENDMENTS TO OTHER ACTS

The Bill amends the Acts referred to in Parts 4 to 9 consequentially to reflect changes in Parts 1 and 2.

Clause by Clause Analysis

PART 1

AMENDMENTS TO TAX ADMINISTRATION ACT 1994

Clause 3 replaces the definitions of ‘non-filing taxpayer’ and ‘taxpayer’s tax position’, amends the definitions of ‘tax’ and ‘tax position’, extends the definition of ‘civil penalty’ to include the new non-electronic filing penalty, and inserts definitions of ‘absentee’ and ‘income statement’.

Clause 4 amends section 4A (1) so as to include tax positions taken in response to income statements in the interpretation provision of ‘taxpayer’s tax position’.

Clause 5 amends section 15B by adding an obligation to respond for natural persons to whom an income statement is issued.

Clause 6 amends section 25 (6) to substitute an expanded list of employee information particulars to the resident withholding tax certificate.

Clause 7 amends section 33 (2) consequential to the amendment of *section 33A*.

Clause 8 replaces *section 33A*. From 1 April 1999 a natural person will be exempted from the requirement to furnish an annual return of income if, in that year, the circumstances of the taxpayer meet the requirements of the new section. Natural persons to whom income statements are to be issued are listed.

Clause 9 amends section 35 by repealing subsections (2) and (3) (b).

Clause 10 amends section 36 (1) to expand the existing authority for the Commissioner to approve the furnishing of returns by electronic means.

Clause 11 introduces *sections 36A to 36c*. *Section 36A* requires employers to provide by electronic means an 'employer monthly schedule'. The schedule must be furnished in a format to be prescribed by the Commissioner. *Section 36B* provides that the Commissioner may authorise an employer to furnish the schedule in a format that is not prescribed if the employer's accounting systems are incapable of providing it in a prescribed format. *Section 36c* requires the electronic format used to be one that is prescribed by the Commissioner.

Clause 12 amends *section 36B* from 1 April 2000 by reducing from 100 to 50 the number of employees employed during a month before compliance with the electronic format provisions may be waived.

Clause 13 omits from section 37 (1) the requirement that an IR 5 taxpayer with a standard balance date furnish a return by 7 June in each year.

Clause 14 amends section 38 (1), consequential to the *new section 33A*.

Clause 15 introduces new procedures for taxpayers to claim the housekeeper and charitable gift rebates.

Clause 16 consequentially amends section 43 (2).

Clause 17 amends section 46 consequential to introduction of the employer monthly schedule requirements.

Clause 18 amends section 47 (1) consequential to the amendment of *section 33A*.

Clause 19 amends section 48 (1) consequential to introduction of the employer monthly schedule requirements.

Clause 20 introduces a new *Part IIIA* to provide for the issue of income statements.

The *new section 80A* provides that *Part IIIA* applies to natural persons who do not derive income other than from employment, or interest, or dividends.

The *new section 80B* requires a natural person who receives an income statement and who is not subject to *Part IIIA* to inform the Commissioner of that fact. The person must inform the Commissioner by 7 February in the income year next following the income year to which the income statement refers.

The *new section 80C* requires a natural person who is exempted from return filing and who should receive an income statement but who has not received an income statement to request the Commissioner to issue an income statement. This request must be made by 7 February in the income year next following the income year to which the request relates.

The *new section 80D* requires the Commissioner to issue an income statement to a person whom the Commissioner considers derived no income other than income from employment, or interest, or dividends.

The *new section 80E* prescribes the types of information to be contained in an income statement, if information of that type is relevant to the person.

The *new section 80F* requires a person who is issued an income statement that the person considers is incorrect to inform the Commissioner of the reasons why the income statement is considered incorrect. A person is not required to respond to an income statement if items of gross annual income from employment, or interest, or dividends, not included in the income statement in aggregate exceed \$200.

The *new section 80G* deems an income statement to be a return of income and to be signed if the person does not inform the Commissioner of the manner in which the person considers it to be incorrect.

The *new section 80H* further deems an income statement to which *section 80C* applies to be a general assessment, a correct statement of the person's taxable income, a correct statement of the person's tax liability, and a correct statement of the income tax payable or refund due.

The *new section 80I* contains provisions relating to deemed matters.

Clause 21 amends the secrecy provisions in section 81 of the Act to authorise the communication to an officer of the Department of Social Welfare of information for the purposes of *section 82A* in order to prevent the cessation of benefit payments.

Clause 22 authorises the exchange of information between the DSW and IRD to ensure beneficiaries are able to provide correct tax file numbers so as to avoid the cessation of benefit payments.

Clause 23 amends section 89C to include an assessment resulting from an income statement in the list of assessments in respect of which a taxpayer may not issue a notice of proposed adjustment under the tax disputes rules.

Clause 24 amends section 89D which prescribes the circumstances in which a taxpayer may issue a notice of proposed adjustment. The amendment requires a taxpayer who has not furnished an amended income statement or a return of income and who wishes to dispute an assessment to furnish an amended income statement or a return of income before commencing the challenge.

Clause 25 amends section 106 to enable the Commissioner to issue an assessment if the Commissioner considers an income statement incorrectly summarises the particulars required under *section 80 E (2)*.

Clause 26 amends section 108 (1) so as to extend the 4-year limitation period for re-assessments to include income statements.

Clause 27 amends section 110 (1) as a consequence of the introduction of income statements.

Clause 28 amends section 111 (1) to provide that the Commissioner is not required to cause notice of an assessment to be given to a taxpayer if the assessment is made as a result of a failure by the taxpayer to comply with the taxpayer's obligations under *section 80F* or the assessment is otherwise deemed to be made under Part III.

Clause 29 amends section 139A (late filing penalties) to include within its scope the employer monthly schedule required to be provided under section NC 15.

Clause 30 introduces *new section 139AA* which establishes a new penalty for failing to furnish an employer monthly statement in an approved electronic format.

Clause 31 consequentially amends section 142 (1).

Clause 32 inserts a *new section 142c* that provides the due date for the non-electronic filing penalty in respect of the employer monthly schedule.

Clause 33 amends section 143 by inserting subsection (4). The amendment provides that for the purposes of section 143 and section 143A and 143B 'tax return' includes an income statement.

Clause 34 consequentially amends section 168 (1).

Clause 35 repeals spent section 173.

Clause 36 consequentially amends section 183A.

Clause 37 amends section 183D consequential to the introduction of the new non-electronic filing penalty.

Clause 38 introduces *new section 184A* which requires refunds of tax paid in excess to be made by direct credit to a bank account nominated by a taxpayer.

PART 2

AMENDMENTS TO INCOME TAX ACT 1994

Clause 40 amends section CF 2 (3) (a) to correct an error that occurred in the course of enactment of the Taxation (Remedial Provisions) Act 1996. The correcting amendment is retrospective to 10 June 1996, that being the effective date of the 1996 amendment.

Clause 41 consequentially amends section CI 1.

Clause 42 inserts *new sections CZ 4A* and *CZ 4B*. *Section CZ 4A* provides that all interests in a group investment fund (GIF) existing on 1 April 1999 must be redeemed using the ordering rule, unless *section CZ 4B* applies. *Section CZ 4B* allows a trustee of a GIF to elect that interests in a GIF existing on or before 31 March 1999 be redeemed using the slice rule. The amendment applies on and after 1 April 1999.

Clause 43 amends section FG 4 to clarify the rules for determining a taxpayer's New Zealand parent if the taxpayer is subject to the thin capitalisation rules by virtue of the "controlled by any other means whatsoever" test.

Clause 44 amends section FG 6 to extend the on-lending concession to certain loans to associated persons.

Clause 45 amends section FG 9 to include interest expense deductible other than under the general interest deductibility rules within the ambit of the thin-capitalisation rules.

Clause 46 amends sections GD 1 (2) and (3) consequential to the amendment to the definition of 'sale or other disposition' enacted by section 32 of the Taxation (Remedial Provisions) Act 1998.

Clause 47 removes superannuation funds from the definition of "designated sources" in section HE 2 (3). The amendment applies on and after 1 April 1999.

Clause 48 amends section KC 1 to permit the reduction by apportionment of the low income rebate on the basis of the number of days for which a taxpayer is absent from New Zealand.

Clause 49 amends section KC 4 to establish that a refund arising under section KC 4 (the housekeeper rebate) may be made only if claimed in the manner prescribed in section 41A.

Clause 50 amends section KC 5 to establish that a refund arising under section KC 5 (the charitable gift rebate) may be made only if claimed in the manner prescribed in section 41A.

Clause 51 amends section KD 1 consequential to the introduction of income statements.

Clause 52 amends the requirements of section KD 5 (family support credits of tax) to require a tax file number for each child in respect of whom an application is made.

Clause 53 consequentially amends section KD 6 (4).

Clause 54 amends section LD 1 consequential to the introduction of employer monthly schedules.

Clause 55 amends section MD 1. Refunds of tax paid in excess will be made automatically and without application if the amount is \$50 or less. However the Commissioner must not refund an amount of tax paid in excess if the amount is greater than \$50 unless the taxpayer has requested the refund. Amounts not refunded will continue to be held to the credit of the taxpayer for the current 8 year period.

Clause 56 amends section MJ 3 to deny, for electing funds that are superannuation funds whose imputation credit accounts had credit balances of more than \$1 million on 31 March 1998, the ability to credit certain imputation credits to their tax credit accounts. The amendment is retrospective to 1 April 1998.

Clause 57 amends section MJ 6 to deny, for electing funds that are life offices whose imputation credit accounts had credit balances of more than \$1 million on 31 March 1998, the ability to credit certain imputation credits to their tax credit accounts. The amendment is retrospective to 1 April 1998.

Clause 58 amends the tax code declaration requirements in section NC 8 (1).

Clause 59 introduces a *new section NC 12A* under which the Commissioner may, where an incorrect tax code rate is being implemented, require an employer to make deductions at a rate prescribed by the Commissioner.

Clause 60 amends the requirements in *section NC 15* concerning the payment of source deductions to the Commissioner.

Clause 61 amends section NC 16 (1) to accommodate the income statement procedure.

Clause 62 consequentially amends *section NC 17 (1)*.

Clause 63 amends *section NC 18 (2)* consequential to the introduction of employer monthly schedules.

Clause 64 inserts a *new section NF 2A* to enable recipients of resident withholding income to elect to have RWT deducted at the higher (33 cent) rate rather than the basic (19.5 cent) rate.

Clause 65 amends *section NF 11* to authorise the Commissioner to publish lists of RWT exemption certificates (including those published in the *Gazette* before commencement of the amendment) by electronic means. The Commissioner waives copyright to this information.

Clause 66 amends section OB I by inserting new definitions of “electronic format”, “employer monthly schedule”, “remittance certificate”, and “specified office holder”. The clause also amends the definition of “employee”.

Clause 67 amends the definition of “source deduction payment” to include a payment made to a specified office holder in respect of the activities of a specified office.

Clause 68 consequentially amends Schedule 14 by replacing clause 1.

Clause 69 consequentially amends Schedule 19.

PART 3

AMENDMENT TO ACCIDENT REHABILITATION COMPENSATION INSURANCE ACT 1992

Clause 71 amends *section 132* of the Accident Rehabilitation and Compensation Insurance Act 1992 to increase the small debt write-off threshold from \$5 to \$20.

PART 4

AMENDMENTS TO CHILD SUPPORT ACT 1991

Clause 73 amends *section 29 (1)* of the Child Support Act 1991 consequential to the introduction of income statements.

Clause 74 amends *section 14* of the Child Support Act 1991 to require the supply of the tax file number of each qualifying child to whom an application for formula assessment relates.

Clause 75 replaces section 216.

PART 5

AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

Clause 77 amends section 60 of the Estate and Gift Duties Act 1968 to require refunds of estate duty, penalty, and interest arising on and after 1 April 1999 to be made in accordance with the requirements of *section 184A* of the Tax Administration Act 1994.

Clause 78 amends section 89 of the Estate and Gift Duties Act 1968 to require refunds of gift duty, penalty, and interest paid in excess on and after 1 April 1999 to be made in accordance with the requirements of *section 184A* of the Tax Administration Act 1994.

PART 6

AMENDMENT TO GAMING DUTIES ACT 1971

Clause 80 amends section 13 of the Gaming Duties Act 1971 to require refunds of gaming duty or interest paid in error or in excess to be made in accordance with the direct credit requirements of *section 184A* of the Tax Administration Act 1994.

PART 7

AMENDMENT TO SOCIAL SECURITY ACT 1964

Clause 82 inserts a new *section 82A* in the Social Security Act 1964. *Section 82A* requires an applicant for a benefit under that Act to provide to the Director-General satisfactory evidence of the applicant’s tax file number. In the case of beneficiaries, the new section requires the Director-General to suspend the payment of a benefit pending receipt of such evidence.

PART 8

AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971

Clause 84 re-enacts the former section 68 of the Stamp and Cheque Duties Act 1971. A repeal of section 68 was inadvertently included in the Taxpayer Compliance, Penalties and Disputes Resolution Bill in 1996.

Clause 85 amends section 85 of the Stamp and Cheque Duties Act 1971 so as to require refunds to be made in the manner prescribed in *section 184A* of the Tax Administration Act 1994.

Clause 86 amends section 86L of the Stamp and Cheque Duties Act 1971 so as to require refunds of approved issuer levy overpaid to be credited to a bank account nominated by the taxpayer.

PART 9

AMENDMENTS TO STUDENT LOAN SCHEME ACT 1992

Clause 88 amends section 15 (3) of the Student Loan Scheme Act 1992 consequentially to the introduction of income statements.

Clause 89 consequentially amends section 17.

Clause 90 consequentially amends section 41 (c) of the Student Loan Scheme Act 1992.

Clause 91 amends section 56 of the Student Loan Scheme Act 1992 so as to require refunds of student loan repayment obligations to be made in accordance with the requirements of *section 184A* of the Tax Administration Act 1994.

Clause 92 amends section 57 to require refunds to be made in accordance with *section 184A* of the Tax Administration Act 1994.

**TAXATION (SIMPLIFICATION AND OTHER
REMEDIAL MATTERS)**

ANALYSIS

Title	19. Special arrangements for supply of information by employer to Commissioner
1. Short Title	20. New Part inserted
PART I	
AMENDMENTS TO TAX ADMINISTRATION ACT 1994	
2. Tax Administration Act 1994	PART IIIA—INCOME STATEMENTS
3. Interpretation	80A. Application
4. Construction of certain provisions	80B. Notification required that taxpayer not subject to this Part
5. Taxpayer's tax obligations	80C. Natural person to request income statement
6. Resident withholding tax deduction certificates	80D. Commissioner must issue income statement
7. Annual income tax returns by taxpayers	80E. Particulars to be included in income statement
8. Section replaced	80F. Taxpayer obligations and assessment on receipt of income statement
33A. Annual income tax returns not required	80G. Income statement deemed return
9. Power of Commissioner to prescribe forms	80H. Income statement deemed general assessment
10. Commissioner may approve furnishing of return information by electronic means	80I. Deemed matters
11. New sections inserted	21. Officers to maintain secrecy
36A. Electronic format of employer monthly schedule and remittance certificate	22. New section inserted
36B. Other formats of employer monthly schedule	82A. Disclosure of information to prevent cessation of benefit payments
36C. Particulars furnished in electronic format	23. Notices of proposed adjustment required to be issued by Commissioner
12. Other formats of employer monthly schedule	24. Taxpayers and others with standing may issue notices of proposed adjustment
13. Dates by which returns to be furnished	25. Assessment where default made in furnishing returns
14. Returns to annual balance date	26. Time bar for amendment of assessment of taxable income, income tax liability and tax payable under Income Tax Act 1994
15. New section inserted	27. Evidence of returns and assessments
41A. Returns by person claiming housekeeper or charitable rebates	28. Commissioner to give notice of assessment to taxpayer
16. Returns by executors or administrators	29. Late filing penalties
17. Employers to make returns as to employees	
18. Employer to furnish statement of specified superannuation contribution withholding tax	

- 30. New section inserted
 - 139AA. Non-electronic filing penalty
- 31. Due date for payment of late filing penalty
- 32. New section inserted
 - 142C. Due date for payment of non-electronic filing penalty
- 33. Absolute liability offences
- 34. Employer failing to make tax deductions
- 35. Section 173 repealed
- 36. Remission for reasonable cause
- 37. Remission consistent with collection of highest net revenue over time
- 38. New section inserted
 - 184A. Refund of tax paid in excess made by direct credit to bank account

PART 2

- AMENDMENTS TO INCOME TAX ACT 1994
- 39. Income Tax Act 1994
 - 40. Meaning of term "dividends"
 - 41. Meaning of "Fringe Benefit"
 - 42. New sections inserted
 - CZ 4A. Treatment of superannuation fund interests in group investment funds on 1 April 1999
 - CZ 4B. Election to use slice rule
 - 43. Rules for calculating New Zealand group debt percentage
 - 44. Concession for on-lending
 - 45. Treatment of specified leases
 - FG 9. Treatment of specified leases and interest expense
 - 46. Sale of trading stock for an inadequate consideration
 - 47. Group investment funds
 - 48. Low income rebate
 - 49. Rebate in certain cases for housekeeper
 - 50. Rebate in respect of gifts of money
 - 51. Determination of net income
 - 52. Credit of tax by instalments
 - 53. Director-General to deliver credit of tax
 - 54. Tax deductions to be credited against tax assessed
 - 55. Refund of excess tax
 - 56. Credits arising to tax credit account
 - 57. Credits arising to life office tax credit account
 - 58. Application of tax codes specified in tax code declarations or tax code certificates
 - 59. New section inserted
 - NC 12A. Employee using incorrect tax code
 - 60. Payment of tax deductions to Commissioner
 - 61. Employee to pay deductions to Commissioner
 - 62. Assessment and payment of tax
 - 63. Bond, etc., in lieu of tax deductions in case of certain non-resident employees

- 64. New section inserted
 - NF 2A. Election to apply higher rate of deduction
- 65. Cancellation of certificates of exemption
- 66. Interpretation
- 67. Meaning of source deduction payment—shareholder—employees of close companies
- 68. Schedule 14 amended
- 69. Schedule 19 amended

PART 3

- AMENDMENT TO ACCIDENT REHABILITATION AND COMPENSATION INSURANCE ACT 1992
- 70. Accident Rehabilitation and Compensation Insurance Act 1992
 - 71. Power of corporation in respect of small amounts

PART 4

- AMENDMENTS TO CHILD SUPPORT ACT 1991
- 72. Child Support Act 1991
 - 73. Basic amount of child support payable
 - 74. Application requirements
 - 75. Section replaced
 - 216. Applications for refunds of excess financial support

PART 5

- AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968
- 76. Estate and Gift Duties Act 1968
 - 77. Refund of estate duty, penalty, and interest paid in excess
 - 78. Refund of gift duty, penalty, and interest paid in excess

PART 6

- AMENDMENT TO GAMING DUTIES ACT 1971
- 79. Gaming Duties Act 1971
 - 80. Refund of duty or interest paid in error or in excess

PART 7

- AMENDMENT TO SOCIAL SECURITY ACT 1964
- 81. Social Security Act 1964
 - 82. Duty to supply tax file number and consequence of failure to do so

PART 8

- AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971
- 83. Stamp and Cheque Duties Act 1971
 - 84. Refund of duty or penalty on application
 - 85. Refund of cheque duty
 - 86. Refund of levy paid in error or in excess

PART 9

- AMENDMENTS TO STUDENT LOAN SCHEME ACT 1992
- 87. Student Loan Scheme Act 1992
 - 88. Commissioner to assess borrower's repayment obligation

89. Borrowers to whom repayment deduction provisions of this Part apply
90. Periods in which interest write-off and interest reduction apply

91. Excess repayments made by residents
92. Election by non-resident to receive refund or to apply overpayment to loan balance

A BILL INTITULED

An Act to make remedial amendments respecting tax and other payments made under the Inland Revenue Acts, the Accident Rehabilitation and Compensation Insurance Act 1992, and to consequentially amend the Social Security Act 1964.

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

1. Short Title—This Act may be cited as the Taxation (Simplification and other Remedial matters) Act 1998.

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PART 1

AMENDMENTS TO TAX ADMINISTRATION ACT 1994

2. Tax Administration Act 1994—The Tax Administration Act 1994 is amended by this Part.

3. Interpretation—(1) In section 3 (1)—

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(a) In the definition of ‘benefit’, in the portion before paragraph (a), “82, 84” is replaced by “82, 82A, 84”.

(b) In the definition of ‘civil penalty’, in paragraph (c) “penalty” is replaced by “penalty; or”, and the following is added:

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“(d) A non-electronic filing penalty:”

(c) In the definition of ‘tax’, after paragraph (a) (x), the following is added:

“(xi) A rebate under section 41A:”

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(d) In the definition of ‘tax position’, after paragraph (k), the following is added:

“(l) Whether the taxpayer is required to request an income statement or to respond to an income statement issued by the Commissioner:

“(m) The application of section 33A (1):

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“(n) A right to a rebate:”

(e) The definition of ‘non-filing taxpayer’ is replaced by:

“‘Non-filing taxpayer’ means a natural person who—

“(a) Is a taxpayer to whom section 33A (1) applies who does not receive an income statement for an income year; or

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“(b) Elects not to file a return for an income year in respect of specified payments derived in the person’s capacity as a non-resident entertainer; or

“(c) In the relevant income year, derives only non-resident withholding income to which section NG 3 of the Income Tax Act 1994 applies;” 5

(f) The definition of ‘taxpayer’s tax position’ is replaced by:

“‘Taxpayer’s tax position’ means—

“(a) Unless **paragraph (b)** applies, a tax position taken by a taxpayer in or in respect of— 10

“(i) A tax return; or

“(ii) An income statement; or

“(iii) A due date:

“(b) If—

“(i) The tax is income tax; and 15

“(ii) The taxpayer alters a tax position taken in a return or in an income statement before the earlier of—

“(A) The issue of an assessment in respect of the tax; and 20

“(B) The due date for payment of the tax—

the tax position the taxpayer takes or is deemed to take in the last amended tax return or in the last amended income statement received by the Commissioner before the issue of the assessment or the deemed assessment or before the due date, whichever applies;” 25

(g) The following are inserted:

“‘Absentee’, in **section 41A**, has the same meaning as in section OB 1 of the Income Tax Act 1994: 30

“‘Income statement’, means a statement issued by the Commissioner to a natural person that contains the information in **section 80E**.”

(2) **Subsection (1) (a)** applies on and after 1 April 1999. 35

(3) **Subsection (1) (b) to (g)** apply to the income years commencing 1 April 1999 and subsequent income years.

4. Construction of certain provisions—(1) After section 4A (1) (c), the following is inserted:

“(ca) A provision referring to a tax position taken in an income statement refers to a tax position taken explicitly or implicitly in the income statement, 40

whether or not the tax position was included by the Commissioner in the income statement.”

(2) **Subsection (1)** applies on and after 1 April 1999.

5 **5. Taxpayer’s tax obligations**—(1) After section 15B (g) the following is added:

“(h) If a natural person to whom **section 80c** applies, inform the Commissioner that they have not received an income statement in respect of an income year if the income statement is not received by the date
10 prescribed by **section 80c (2) or (3)**.

“(i) If the taxpayer is a natural person, correctly respond to any income statement issued to the taxpayer.”

(2) **Subsection (1)** applies on and after 1 April 1999.

15 **6. Resident withholding tax deduction certificates**—

(1) Section 25 (6) is replaced by:

“(6) A resident withholding tax deduction certificate prepared in accordance with this section must include the following:

20 “(a) The full name and address of the payer:

“(b) The full name and last known address of the recipient unless, after making reasonable inquiries, the payer is unable to obtain those details:

25 “(c) The tax file number of the recipient, if known to the payer:

“(d) A statement as to whether the resident withholding income to which the certificate relates is interest or specified dividends:

30 “(e) The date on which the deduction was made, or if there is more than one deduction, the year in which the deductions were made and to which the certificate relates:

35 “(f) The amount of the resident withholding tax deduction or deductions and the amount of resident withholding income to which the certificate relates:

“(g) In respect of interest, a statement of the amount of that interest that is subject to the deduction of resident withholding tax at the resident withholding tax rate specified in **Schedule 14, clause 1(c)**:

40 “(h) In respect of interest to which **paragraph (g)** applies, a statement by the Commissioner that the recipient

may be required to request the issue of an income statement.”

(2) **Subsection (1)** applies to a resident withholding tax deduction certificate required to be issued in respect of interest paid on and after 1 April 1999.

5

7. Annual income tax returns by taxpayers—

(1) Section 33 (2) is replaced by:

“(2) A taxpayer to whom **section 33A (1)** applies in an income year is not required to furnish a return of income in respect of that income year.”

10

(2) **Subsection (1)** applies to income years commencing on and after 1 April 1999.

8. Section replaced—(1) Section 33A is replaced by:

“**33A. Annual income tax returns not required—**(1) A natural person is not required to furnish a return of income for an income year and will not receive an income statement from the Commissioner for the year if, in the year, the natural person—

15

“(a) Does not derive gross income other than from employment that is subject to the PAYE rules and interest or dividends that is subject to the RWT rules; and

20

“(b) Derives \$200 or less, in aggregate, of—

“(i) Gross income that is subject to the PAYE rules and to student loan repayment deduction under sections 19 and 20 of the Student Loan Scheme Act 1992, in relation to which the person’s obligations under those rules are not met; and

25

“(ii) Interest that is subject to the RWT rules, in relation to which the natural person does not comply with his or her obligations under those rules; and

30

“(iii) Income from employment from which the earner premium is not deducted correctly; and

“(iv) Interest from which RWT has been withheld at a rate other than the rate specified in **Schedule 14, clause 1 (b)** if that person’s annual gross income exceeds \$38,000; and

35

“(v) Income from employment being extra emoluments from which tax has been withheld at a rate other than the rate specified in Schedule 19,

40

clause 8 (b) if that person's annual gross income exceeds \$38,000; and

5 “(vi) Income from employment being secondary earnings from which tax has been withheld at a rate other than the rate specified in Schedule 19, clause (5A) if that person's annual gross income exceeds \$38,000; and

10 “(vii) Interest or dividends, if the person is required to pay financial support under the Child Support Act 1991; and

15 “(viii) Interest or dividends, if the person has an IRD loan balance (as defined in section 2 of the Student Loan Scheme Act 1992), other than a balance of nil on the last day of the income year, and income that is more than the student loan repayment threshold (as defined in section 2 of the Student Loan Scheme Act 1992) for that income year; and

20 “(ix) Salary or wages from employment as an election day worker; and

 “(x) Attributed income (as defined in section OB 1 of the Income Tax Act 1994), if the person has gross income of more than \$38,000; and

25 “(c) Does not receive income from employment from which a tax deduction is made and the amount of the tax deduction is determined in whole or in part by a special tax code certificate issued under section NC 14 of the Income Tax Act 1994; and

30 “(d) Is not issued a family certificate of entitlement for any part of the income year; and

 “(e) Does not have a spouse who is issued with a family certificate of entitlement for any part of the income year; and

35 “(f) Or the spouse of the natural person, is not paid by the Director-General of Social Welfare a family credit under section KD 2 (4) of the Income Tax Act 1994 for which the amount of family credit abatement (under section KD 2 (4) of the Income Tax Act 1994) is greater than nil; and

40 “(g) Is a person who in an income year has a nil IRD loan balance on the last day of the year, or who has a balance greater than nil and is a person to whom paragraph (b) (viii) applies.

“(2) **Subsection (1)** does not apply to a natural person who, in an income year—

“(a) Is an absentee; or

“(b) Is a provisional taxpayer; or

“(c) Is not a cash-basis holder; or

“(d) Received a withholding payment; or

“(e) Received beneficiary income; or

“(f) Received gross income as a private domestic worker; or

“(g) Is required under section 44 to furnish a return of income; or

“(h) Made a net loss; or

“(i) Has an available net loss; or

“(j) Died; or

“(k) Held a certificate of exemption under section NF 9 at any time in that income year.

“(3) A person to whom **subsection (2)** applies for an income year is required to furnish a return of income for that year and is not a person to whom an income statement is required to be issued.

“(4) Subject to **section 80b**, the Commissioner will not issue an income statement to a person to whom subsection (1) applies.

“(5) The Commissioner must issue an income statement to a person to whom neither of **section 33A (1)** or **(2)** applies.”

(2) **Subsection (1)** applies to income years commencing on and after 1 April 1999.

9. Power of Commissioner to prescribe forms—(1) In section 35, subsections (2) and (3) (b) are omitted.

(2) **Subsection (1)** comes into force on 1 April 1999.

10. Commissioner may approve furnishing of return information by electronic means—(1) In section 36 (1), “taxpayer or registered person” is replaced by “taxpayer, or employer, or registered person”.

(2) Section 36 (2) (a) is replaced by:

“(a) May relate to a taxpayer, an employer, or a registered person and to an agent of a taxpayer, an employer, or a registered person; or to a class of taxpayers, or to a class of employers, or to a class of registered persons.”

(3) In section 36 (3), wherever it appears, “taxpayer or registered person” is replaced by “taxpayer, or employer, or registered person”.

(4) **Subsections (1)** to **(3)** come into force on 1 April 1999.

11. New sections inserted—(1) After section 36, the following are inserted:

5 “36A. **Electronic format of employer monthly schedule and remittance certificate**—(1) The Commissioner must prescribe one or more electronic formats in which an employer monthly schedule must be furnished by an employer that is required to furnish that schedule in an electronic format.

10 “(2) The Commissioner may prescribe one or more electronic formats in which a remittance certificate must be furnished by an employer that has elected to furnish that certificate in an electronic format.

15 “(3) A format prescribed under **subsection (1)** or **(2)** may relate to an employer or to a class or classes of employer and is subject to the conditions specified by the Commissioner, whether generally or in a particular case.

20 “36B. **Other formats of employer monthly schedule**—(1) Despite **section 36A (1)**, the Commissioner may authorise an employer to furnish the employer monthly schedule in a format that is not electronic if the employer’s accounting system is incapable of providing the employer monthly schedule in a prescribed electronic format.

25 “(2) For the purposes of **subsection (1)**, an employer’s accounting system is incapable of providing the employer monthly schedule in a prescribed electronic format if the Commissioner considers the cost likely to be incurred by the employer in furnishing it is material, having regard to—

30 “(a) The likely costs incurred by other employers in providing an employer monthly schedule in a prescribed electronic format; and

“(b) The additional administrative costs that are likely to be incurred by the Commissioner in processing an employer monthly schedule that is not provided in a prescribed electronic format; and

35 “(c) In the preceding income year, the employer employed 100 or fewer employees; or

“(d) The employer was not an employer in the preceding income year and at all times in the income current year employed 100 or fewer employees.

40 “(3) For the purposes of **subsection (2)(c)** and **(d)**, if during an income year an employer ceases one business and commences a new business or operates 2 or more businesses simultaneously, the number of employees of the employer is

calculated as the aggregate of the employees in all the businesses.

“(4) If an amalgamating company ceases to exist on an amalgamation, **subsection (2)(c)** and **(d)** apply from the date of the amalgamation as though the number of employees employed by the amalgamating company is the same as in the preceding year. 5

“**36c. Particulars furnished in electronic format**—(1) In the application of any of sections 35, 36, **36A**, or **36B**, information that is required to be furnished electronically is not in a prescribed format unless it is furnished in an electronic format certified by the Commissioner as being the prescribed electronic format. 10

“(2) The production by the Commissioner of a document purporting to be a printed copy of a specification of an electronic format or a part of that specification, in all courts and in all proceedings (including proceedings before a Taxation Review Authority), is sufficient evidence of the fact that the electronic format was prescribed.” 15

(2) **Subsection (1)** applies to employer monthly schedules, forms and returns furnished on and after 1 April 1999. 20

12. Other formats of employer monthly schedule—(1) In **section 36B (2) (c)** and **(d)** as enacted by **section 11**, wherever it appears, “100” is replaced by “50”.

(2) **Subsection (1)** applies to an employer monthly schedule that is required to be furnished on or after 1 April 2000. 25

13. Dates by which returns to be furnished—(1) Section 37 (1) (a) is omitted.

(2) Section 37 (6) is omitted.

(3) **Subsections (1)** and **(2)** apply to the income year commencing 1 April 1999 and to subsequent income years. 30

14. Returns to annual balance date—(1) In section 38 (1), “any taxpayer” is replaced by “a taxpayer (other than a taxpayer to whom **section 33A** applies)”.

(2) **Subsection (1)** applies to the income year commencing 1 April 1999 and to subsequent income years. 35

15. New section inserted—(1) After section 41 the following is inserted:

“**41A. Returns by person claiming housekeeper or charitable rebates**—(1) A person allowed a rebate under 40

section KC 4 or section KC 5 of the Income Tax Act 1994 may apply to the Commissioner for one or more refunds.

“(2) The total amount of the refunds must not exceed the annual amount of the rebates allowed.

5 “(3) The aggregate of the qualifying payments under section KC 4 of the Income Tax Act 1994 and gifts under section KC 5 of the Income Tax Act 1994 must not exceed a taxpayer’s taxable income in the immediately preceding income year.

10 “(4) If **subsection (3)** applies in an income year, the Commissioner must, in equal portions, reduce the aggregate amount of qualifying payments and gifts so that the total amount of qualifying payments and gifts does not exceed the taxpayer’s taxable income in the immediately preceding
15 income year.

“(5) An application under **subsection (1)** must be made in the manner required by the Commissioner, be signed by the person, and be accompanied by any information the Commissioner requires, including—

20 “(a) The amount of a payment that is a qualifying payment under section KC 4 of the Income Tax Act 1994; and

“(b) The amount of a gift to which section KC 5 of the Income Tax Act 1994 applies.

25 “(6) Despite **subsection (1)**, the Commissioner must not refund a rebate unless an application that complies with **subsections (2) and (3)** is received by the Commissioner—

30 “(a) In the case of a taxpayer with a standard balance date, by the 30 September next following the end of the taxpayer’s income tax year; or

“(b) In the case of other taxpayers, by the last day of the month that is the sixth month after the end of the taxpayer’s accounting year.

35 “(7) When the Commissioner has considered an application for a rebate under this section, the Commissioner must, by written notice, inform the taxpayer of the amount of the rebates allowed under section KC 4 or section KC 5 of the Income Tax Act 1994 and of the amount of refund allowed.

40 “(8) No rebate may be refunded to an absentee, or a company, or a public authority, or a Maori Authority, or an unincorporated body, or a trustee assessable and liable for income tax under section HH 3, or HH 6, or HK 14, or HZ 2 of the Income Tax Act 1994.

“(9) A refund allowed under **subsection (1)** must be paid as if it were tax paid in excess.

“(10) A refund allowed under **subsection (1)**, to the extent it exceeds the correct amount of refund is recoverable as an excess credit of tax under section 142D. 5

“(11) Part VII does not apply to a refund or an excess refund made under this section.

“(12) Part IX applies to applications made under this section.”

(2) **Subsection (1)** applies to qualifying payments and gifts made in the income year commencing 1 April 1999 and subsequent income years. 10

16. Returns by executors or administrators—(1) After section 43 (2), the following is inserted:

“(3) **Part IIIA** and **section 33A (1)** do not apply to a natural person who acts in the capacity of an executor or administrator of a deceased taxpayer.” 15

(2) **Subsection (1)** applies on and after 1 April 1999.

17. Employers to make returns as to employees—In section 46—(1) Subsection (1) is replaced by: 20

“(1) An employer must furnish an employer monthly schedule containing particulars of the persons employed by the employer in a month and of all salaries, wages, and other emoluments received in that month by each person employed.” 25

(2) Subsections (2), (3), (4) and (5) are replaced by:

“(2) The Commissioner may vary the requirements to provide particulars of the commencement or cessation of employment in an employer monthly schedule, in relation to any employer or class of employer, and in the cases and to the extent that the Commissioner considers fit, and the requirements apply as varied. 30

“(3) No variation made by the Commissioner under **subsection (2)** may impose a more onerous requirement on an employer than is imposed by the employer monthly schedule. 35

“(4) Subject to **subsection (5)**, particulars required to be included in an employer monthly schedule in relation to a person who receives—

“(i) New Zealand Superannuation; or

“(ii) The veteran’s pension; or

“(iii) An income-tested benefit; or 40

“(iv) Earnings related compensation or other compensation under the Accident Rehabilitation and Compensation Insurance Act 1992; or

5 “(v) Compensation for loss of earnings payable under sections 38, 39, or 43 of the Accident Compensation Act 1982, or a vocational allowance payable under section 25 of that Act, or compensation for loss of potential earning capacity payable under section 45 or section 46 of that Act, or weekly compensation payable under sections 58, 59, or 60 of that Act or continued compensation payable under section 138 of that Act; or

10 “(vi) Allowances paid pursuant to regulations made under section 303 of the Education Act 1989; or

15 “(vii) A credit of tax paid under Part KD of the Income Tax Act 1994—

that occur between 1 April 1999 and 31 March 2000 must be furnished to the Commissioner annually in a single employer monthly schedule on or before 5 April 2000.

20 “(5) **Subsection (4)** does not include the name, tax file number, or any other particular in relation to child support or student loan deductions made.”

25 (3) In subsection (6)—

(a) The portion before paragraph (a) is replaced by:

“(6) Nothing in the employer monthly schedule requires information in relation to—”; and

(b) Paragraph (c) is omitted.

30 (4) **Subsections (1) to (3)** apply on and after 1 April 1999.

18. Employer to furnish statement of specified superannuation contribution withholding tax—(1) In section 47 (1)—

35 (a) In paragraph (c), “section NC 15 (1) (c)” is replaced by “section NC 15 (1) (c) or (d)”; and

(b) The words after paragraph (c) are replaced by:

40 “to the Commissioner a remittance certificate showing the amount of specified superannuation contribution and of specified superannuation contribution withholding tax relating to that contribution and any other particulars the Commissioner may require.”

(2) Section 47 (2) is omitted.

(3) **Subsections (1) and (2)** apply on and after 1 April 1999.

19. Special arrangements for supply of information by employer to Commissioner—(1) In section 48 (1), “certificate,” is omitted.

(2) **Subsection (1)** applies on and after 1 April 1999.

20. New Part inserted—(1) After section 80, the following is inserted: 5

“PART IIIA—INCOME STATEMENTS

“80A. **Application**—(1) This Part applies to a natural person who does not derive income other than from employment, or interest, or dividends, and who— 10

“(a) Is a person to whom **section 33A (5)** applies; or

“(b) Is a person exempted under **section 33A** from the requirement to furnish an annual return of income or to be issued an income statement and who asks the Commissioner to issue an income statement under **section 80c (4)**; or 15

“(c) Is a person exempted under **section 33A** from the requirement to furnish an annual return of income and is a person to whom an income statement is not required to be issued but who has been issued an income statement under **section 80d (2)**. 20

(2) This Part applies to income years commencing on and after 1 April 1999.

“80B. **Notification required that taxpayer not subject to this Part**—(1) A natural person who receives an income statement and who is not subject to this Part in an income year because the person derived income other than from employment, or interest, or dividends, or who is a person to whom **section 33A (2)** applies, must inform the Commissioner that the person is not (for that income year) subject to this Part. 25 30

“(2) The information required under **subsection (1)** from a person to whom section NC 17 applies, must be received by the Commissioner no later than 7 February in the income year next following the income year to which the income statement refers. 35

“(3) The information from a person to whom section NC 17 does not apply must be received by the Commissioner no later than the person’s terminal tax date for the income year to which the income statement refers.

“(4) An income statement to which **section 80B (1)** refers is to be regarded as not having been issued. 40

“80C. Natural person to request income statement—

(1) A person to whom **section 33A (5)** refers and who has not received an income statement must request the Commissioner to issue an income statement.

5 “(2) A request required under **subsection (1)** from a person to whom section NC 17 applies, must be received by the Commissioner no later than 7 February in the income year next following the income year to which the income statement relates.

10 “(3) The information from a person to whom section NC 17 does not apply must be received by the Commissioner no later than the person’s terminal tax date for the income year to which the income statement refers.

15 “(4) A person to whom **section 33A (1)** applies may at any time after the end of their income year request the issue of an income statement relating to that year.

“80D. Commissioner must issue income statement—(1)

20 In respect of each income year, the Commissioner must issue an income statement to a person whom the Commissioner considers did not derive income other than from employment, or interest, or dividends; and who—

 “(a) Is not a person to whom **section 33A (1)** applies; or

25 “(b) Is a person to whom **section 33A (1)** applies and who requests the Commissioner to issue an income statement.

 “(2) Despite **subsection (1)**, the Commissioner may issue an income statement to a person at any time if the Commissioner considers the person has received gross annual income in an income year.

30 “(3) The Commissioner may issue more than one income statement in respect of an income year to a person.

“80E. Particulars to be included in income statement—

35 (1) An income statement issued under this Part must contain the information specified in **subsection (2)** to the extent that information is applicable to the circumstances of the person.

 “(2) The information is—

 “(a) The amount of a natural person’s gross annual income that the Commissioner considers was derived from employment, or interest, or dividends; and

40 “(b) The sources of the gross annual income in **paragraph (a)**; and

“(c) The amounts of the source deductions or withholding deductions made in relation to the gross annual income; and

“(d) The amount of earner premium deducted in respect of the person; and

“(e) A calculation of the income tax liability of the person, including any tax payable or refund due; and

“(f) Any further particulars the Commissioner considers necessary.

“80F. **Taxpayer obligations and assessment on receipt of income statement**—(1) Unless **subsection (4)** applies, a person who receives an income statement that the person considers is not correct must inform the Commissioner, not later than the date prescribed in **subsection (2)** or **(3)**, of the reasons why the person considers the income statement is incorrect and provide the information the taxpayer considers necessary to correct the income statement.

“(2) A person to whom section NC 17 applies must advise the Commissioner under **subsection (1)** by the later of—

“(a) 7 February in the income year next following the income year to which the income statement relates; or

“(b) The date that occurs 2 months after the date of issue of the income statement.

“(3) A person to whom section NC 17 does not apply must advise the Commissioner under **subsection (1)** by the later of—

“(a) The terminal tax date of the person for the income year to which the income statement relates; or

“(b) The date that occurs 2 months after the date of issue of the income statement.

“(4) A person is not required to inform the Commissioner of gross annual income from employment, or interest, or dividends that is not included in the income statement unless, in aggregate, it is more than \$200.

“(5) For the purposes of **subsection (4)**, the amount of gross annual income from interest must not include an amount of interest in relation to which there was no requirement to prepare a RWT deduction certificate under section 25 (7).

“(6) If the Commissioner accepts as correct the information given by the person under **subsection (1)**, the Commissioner must issue another income statement that incorporates that information.

“(7) If the Commissioner does not accept as correct all the information given by the person under **subsection (1)**, the

Commissioner may issue to the person a further income statement or an assessment that includes those particulars in **section 80E** that the Commissioner accepts as being applicable to the person.

5 “**80G. Income statement deemed return**—(1) This section applies to a person to whom—

 “(a) An income statement is required to be issued and who considers that the income statement correctly summarises the particulars listed in **section 80E (2)** that are applicable to that person:

10 “(b) An income statement is issued and who does not inform the Commissioner of the reasons why the person considers that the income statement is incorrect.

 “(2) Except for purposes of sections 37 and 38, an income statement is deemed to be a return of income furnished by the person under section 33 of a person to whom **subsection (1)** applies and to be signed by the person.

15 “(3) Unless a taxpayer responds in the manner required under **section 80F**, each tax position taken in an income statement issued by the Commissioner is deemed to be a taxpayer’s tax position.

 “**80H. Income statement deemed general assessment**—
(1) An income statement that is deemed to be a return of income under **section 80G** is also deemed, in respect of the income year to which it relates, to be a general assessment under section 92 as to the person’s taxable income, the person’s income tax liability, and the person’s income tax payable or refund due.

25 “(2) If **subsection (1)** applies, section 111 does not apply.

30 “(3) Unless **subsection (4)** or **(5)** applies, a general assessment under **subsection (1)** is deemed to be made on the earlier of—

 “(a) 7 February in the income year that next follows the income year to which the income statement relates if section NC 17 applies to the person; or

35 “(b) The person’s terminal tax date for the income year to which the income statement relates; or

 “(c) The 30th day after the date of issue of an income statement if the statement shows an amount of tax is overpaid that does not exceed the amount specified in **section MD 1 (1A)** of the Income Tax Act 1994; or

40 “(d) The date on which the person requests a refund of tax under **section MD 1 (1A)** of the Income Tax Act 1994.

“(4) In the case of an income statement issued to a person to whom section NC 17 applies that is issued not more than 2 months before 7 February in the income year that next follows the income year to which the income statement relates, a general assessment under **subsection (1)** is deemed to be made on the date that is 2 months after the date of issue of the income statement. 5

“(5) In the case of an income statement that is issued not more than 2 months before the terminal tax date of a person to whom section NC 17 does not apply, a general assessment under **subsection (1)** is deemed to have been made on the date that is 2 months after that income statement is issued. 10

“80I. **Deemed matters**—(1) This section applies to matters that are deemed to occur under this Part and to the income year in which the matters are deemed to occur. 15

“(2) If an event referred to in this Part has occurred, a statement by the Commissioner that—

“(a) A return of income is deemed to be furnished; or

“(b) A return is deemed to have been signed by a taxpayer; or 20

“(c) A general assessment is deemed to have been made by the Commissioner—

is conclusive.

“(3) A matter referred to in **subsection (2)** may not be called into question in any challenge or other proceedings on the basis that— 25

“(a) A return of income has not been furnished; or

“(b) A taxpayer has not furnished a return of income; or

“(c) A taxpayer has not signed a return of income; or

“(d) The assessment is not final. 30

“(4) A matter required to be done or provided within the time limit for furnishing a return of income is deemed to be required to be done or provided within the time limit for responding to an income statement.”

(2) **Subsection (1)** applies to the 1999–2000 and subsequent income years. 35

21. Officers to maintain secrecy—(1) In section 81 (4), after paragraph (m), the following is inserted:

“(n) Communicating to a person who is an officer, employee, or agent of the Department of Social Welfare information that the person is authorised by the Director-General of Social Welfare to receive and 40

that information is communicated for the purposes of **section 82A:**”

(2) **Subsection (1)** applies on and after 1 April 1999.

5 **22. New section inserted**—(1) After section 82, the following is inserted:

“**82A. Disclosure of information to prevent cessation of benefit payments**—(1) This section authorises the exchange of information between the Inland Revenue Department and the Department of Social Welfare in order to ensure the provision of correct tax file numbers of beneficiaries so as to prevent the cessation of benefit payments.

10 “(2) For the purposes of **subsection (1)**, an authorised officer or agent of the Department of Social Welfare may give to the Commissioner any information about a beneficiary that is held by that Department if the information may assist in identifying the beneficiary to the Inland Revenue Department.

15 “(3) A disclosure of information must not be made under **subsection (2)** until 10 working days after the Department of Social Welfare requests, orally or in writing, a beneficiary to supply the beneficiary’s tax file number and the beneficiary does not provide it to the Department.

20 “(4) The Commissioner may compare the information referred to in **subsection (2)** with other information held by the Inland Revenue Department.

25 “(5) If, as a result of a comparison under this section, the beneficiary is identified, the Commissioner may supply the tax file number of the beneficiary to a person authorised under **section 81 (4)(n)** to receive that information.

30 “(6) A tax file number provided by the Commissioner under **subsection (5)** may be used by the Department of Social Welfare as if it were supplied by the beneficiary.

“ (7) In this section, ‘authorised officer’ (in relation to the Department of Social Welfare), has the same meaning as in section 82 (9).

35 “(8) In this section:

“ ‘Beneficiary’ means a person who is receiving, or who has received, a benefit, and includes an applicant for a benefit:

40 “ ‘Beneficiary information’, in relation to a beneficiary, means information that—

“ (a) Identifies the beneficiary; and

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

“‘Benefit’ includes an allowance paid pursuant to regulations made under section 303 of the Education Act 1989: 5

“(9) No obligation as to secrecy or other restriction imposed by an enactment or otherwise prevents the Director-General of Social Welfare or an authorised officer of the Department of Social Welfare from receiving information disclosed by the Commissioner.” 10

(2) **Subsection (1)** applies on the date on which this Act receives the Royal assent.

23. Notices of proposed adjustment required to be issued by Commissioner—(1) In section 89C (j), “taxpayer.” is replaced by “taxpayer; or” and the following is inserted: 15

“(1) The assessment results from an income statement under **Part IIIA.**”

(2) **Subsection (1)** applies to assessments made or deemed to be made on or after 1 April 1999. 20

24. Taxpayers and others with standing may issue notices of proposed adjustment—(1) Section 89D (2) is replaced by:

“(2) A taxpayer that has not furnished a return of income or, if **Part IIIA** applies, an amended income statement in respect of an assessment period, and who wishes to dispute an assessment may dispute the assessment only by furnishing a return of income or amended income statement in respect of the assessment period.” 25

(2) **Subsection (1)** applies to assessments made on or after 1 April 1999. 30

25. Assessment where default made in furnishing returns—(1) After section 106 (1), the following are inserted:

“(1A) Despite **Part IIIA**, if the Commissioner considers an income statement incorrectly summarises the particulars required by **section 80E (2)**, the Commissioner may make an assessment of the amount on which the Commissioner considers tax ought to be imposed and of the amount of that tax. 35

“(1B) The tax assessed is payable unless the person to whom an assessment under this subsection relates furnishes a return 40

or an amended income statement under **section 89D (2)** in respect of that assessment period.

5 “(1C) **Subsection (1A)** applies if a person to whom an income statement is issued does not inform the Commissioner of the reasons why the person considers the income statement is incorrect and provide the information the person considers necessary to correct the income statement by the date prescribed in **section 80F**.”

10 (2) **Subsection (1)** applies to income years commencing on and after 1 April 1999.

26. Time bar for amendment of assessment of taxable income, income tax liability and tax payable under Income Tax Act 1994—(1) After section 108 (1), the following is inserted:

15 “(1A) Unless **subsection (2)** or section 108B applies, the Commissioner must not issue an income statement under **Part IIIA** if 4 years have passed since the end of the income year that follows the income year to which the income statement would apply.”

20 (2) **Subsection (1)** applies to income statements that would apply to income years commencing on and after 1 April 1999.

27. Evidence of returns and assessments—(1) In section 110 (1), “return or assessment” is replaced by “return, income statement, or assessment”.

25 (2) **Subsection (1)** applies to income years commencing on and after 1 April 1999.

28. Commissioner to give notice of assessment to taxpayer—(1) After section 111 (1) (b), the following are inserted:

30 “(ba) The assessment is made after a failure by the taxpayer to comply with the taxpayer’s obligations under **section 80F**; or

“(bb) An assessment is deemed to be made under **Part IIIA**; or”

(2) After section 111 (6), the following is inserted:

35 “(7) If requested to do so, the Commissioner must give an assessment to a taxpayer who accepts under **section 80F** an income statement as correct.”

(3) **Subsections (1)** and **(2)** apply to income years commencing on and after 1 April 1999.

29. Late filing penalties—(1) Section 139A (1) is replaced by:

“(1) This section applies to tax returns required to be furnished under sections 33, 41 to 44, and 79 (in this Part, “annual tax returns”), the reconciliation statement required to be provided under regulation 3 of the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992, and the employer monthly schedule required to be provided under **section NC 15 (1) (a) or (b) or (c) or (d)** of the Income Tax Act 1994.

(2) In subsection (2), paragraph (a) is replaced by the following:

“(a) The taxpayer does not provide a completed annual tax return, reconciliation statement, employer monthly schedule on time; and”

(3) Subsection (4) is replaced by:

“(4) The late filing penalty for a reconciliation statement or employer monthly schedule is \$250.”

(4) In subsection (5), the portion before paragraph (a) is replaced by:

“(5) Except in the case of a late filing penalty resulting from an employer monthly schedule, the Commissioner must, not less than 30 days before imposing a late filing penalty—”.

(5) **Subsections (1) to (4)** apply to an employer monthly schedule and a reconciliation statement in relation to tax deductions from source deduction payments made on or after 1 April 1999 and annual tax returns for the income year commencing 1 April 1999 and subsequent income years.

30. New section inserted—(1) After section 139A, the following is inserted:

“139AA. **Non-electronic filing penalty**—(1) This section applies to an employer that is required to comply in a prescribed electronic format with the requirements of **sections NC 15 (1) (a) and (b)** of the Income Tax Act 1994.

“(2) An employer is liable to a non-electronic filing penalty if the employer does not furnish the employer monthly schedule in a format that is prescribed.

“(3) **Subsection (2)** does not apply if the employer is authorised under **section 36B (1)** to furnish the employer monthly schedule in a format that is not prescribed.

“(4) The non-electronic filing penalty is the greater of \$250 or \$1 for each employee employed at any time during the month to which the employer monthly schedule relates.”

5 (2) **Subsection (1)** applies to employer monthly schedules required to be furnished on and after 1 April 1999.

31. Due date for payment of late filing penalty—(1) In section 142 (1)—

10 (a) In the words before paragraph (a), “The” is replaced by “Except in the case of an employer monthly schedule, the”.

(b) Paragraph (a) is replaced by:

“(a) On the date determined under section NC 17 (2) for tax returns to be furnished by employees; or”

(c) Paragraphs (c), (d), and (e) are replaced by:

15 “(c) For the reconciliation statement that is required by regulation 3 of the Accident Rehabilitation and Compensation Corporation Insurance (Earnings Definitions) Regulations 1992, the date by which the employer is required to furnish the reconciliation statement.”

20 (2) After section 142 (1), the following is inserted:

“(1A) The due date for the payment of a late filing penalty in respect of an employer monthly schedule is—

25 “(a) The 5th day of the month next following the month in which the employer was required to furnish the employer monthly schedule for an employer to which **section NC 15 (1)(b)** of the Income Tax Act 1994 applies; and

30 “(b) The 20th day of the month next following the month in which the employer was required to furnish the employer monthly schedule for an employer to which **section NC 15 (1)(c)** or **(d)** applies.”

(3) In section 142 (2), “, “employer monthly schedule”, ” is inserted after “annual tax return”.

35 (4) **Subsection (1)(a)** applies on and after 1 April 1999.

(5) **Subsection (1)(b)** is deemed to apply to an annual tax return required to be furnished by an employee for the 1997–98 and subsequent income years.

40 (6) **Subsection (1)(c)** applies to an annual tax return and reconciliation statements required to be furnished in relation to the 1999–2000 and subsequent income years.

(7) **Subsections (2)** and **(3)** apply on and after 1 April 1999.

32. New section inserted—(1) After section 142F, the following is inserted:

“142G. Due date for payment of non-electronic filing penalty—(1) A non-electronic filing penalty under **section 139AA** is due and payable on the 5th day of the month following the month in which the employer was required to furnish an employer monthly schedule in a prescribed electronic format.” 5

(2) **Subsection (1)** applies to employer monthly schedules required to be furnished on and after 1 April 1999.

33. Absolute liability offences—(1) After section 143 (3), the following is inserted: 10

“(4) In this section and in sections 143A and 143B, ‘tax return’ includes an income statement.”

(2) **Subsection (1)** applies on and after 1 April 1999.

34. Employer failing to make tax deductions—(1) In section 168 (1), “paragraphs (a), (b), and (c)” are replaced by “paragraphs (a), (b), (c), and (d)”. 15

(2) **Subsection (1)** applies on and after 1 April 1999.

35. Section 173 repealed—Section 173 (which relates to the overpayment of Family Credit of tax) is repealed. 20

36. Remission for reasonable cause—(1) Section 183A (1) is replaced by:

“(1) This section applies to a late filing penalty, a non-electronic filing penalty, a late payment penalty, and imputation penalty tax imposed by section 140B, and a dividend withholding payment penalty tax imposed by section 140C. 25

“(1A) The Commissioner may remit the penalty if the Commissioner is satisfied that—

“(a) A penalty to which this section applies arises as a result of an event or circumstance beyond the control of a taxpayer; and 30

“(b) As a consequence of that event or circumstance the taxpayer has a reasonable justification or excuse for not furnishing the tax return or an employer monthly schedule, or not furnishing an employer monthly schedule in a prescribed electronic format, or not paying the tax on time; and 35

“(c) That the taxpayer corrected the failure to comply as soon as practicable.” 40

(2) **Subsection (1)** applies to penalties that arise on and after 1 April 1999.

37. Remission consistent with collection of highest net revenue over time—(1) In section 183D (1), after paragraph (a), the following is inserted:

“(aa) A non-electronic filing penalty; and”

(2) **Subsection (1)** applies to penalties that arise on and after 1 April 1999.

38. New section inserted—(1) After section 184, the following is inserted:

“184A. **Refund of tax paid in excess made by direct credit to bank account**—(1) Unless **subsection (3)** applies, a refund of tax paid in excess must be made by direct credit to a bank account nominated by the taxpayer entitled to the refund.

“(2) When a taxpayer claims a refund, the taxpayer must provide to the Commissioner the particulars of a bank account in New Zealand to which a direct credit of the amount of the refund is to be made.

“(3) If the Commissioner is satisfied that the application of **subsections (1)** and **(2)** would result in undue hardship to a taxpayer, or is not practicable, a refund of tax paid in excess may be made by other means acceptable to the Commissioner.

“(4) In this section ‘bank account’ means an account with a bank that is a registered bank or a private savings bank or a credit union or a Building Society or the Public Service Investment Society Limited.

“(5) In this section, ‘tax’ means—

“(i) An amount that is defined as tax in section 3 (1):

“(ii) The approved issuer levy (as defined in section 86F of the Stamp and Cheque Duties Act 1971):

“(iii) Cheque duty (as provided for in section 77 of the Stamp and Cheque Duties Act 1971):

“(iv) Financial support (as defined in section 2(1) of the Child Support Act 1991):

“(v) If the borrower has elected a refund under section 56 (1A) of the Student Loan Scheme Act 1992, a repayment obligation (as defined in section 2 of that Act).”

(2) **Subsection (1)** applies on and after 1 April 2000.

PART 2

AMENDMENTS TO INCOME TAX ACT 1994

39. Income Tax Act 1994—The Income Tax Act 1994 is amended by this Part.

40. Meaning of term “dividends”—(1) In section CF 2 (3) (a), “designated investment fund” is replaced by “designated group investment fund”. 5

(2) **Subsection (1)** is deemed to have applied to a payment made or to a transaction entered into after 3 p.m. on 10 June 1996.

41. Meaning of “Fringe Benefit”—(1) In section CI 1 (la), “or income statement” is inserted after “tax return”. 10

(2) **Subsection (1)** applies on and after 1 April 1999.

42. New sections inserted—After section CZ 4, the following is inserted:

“**CZ 4A. Treatment of superannuation fund interests in group investment funds on 1 April 1999**—(1) **Subsection (2)** and **section CZ 4B** apply to a superannuation fund’s interest in a group investment fund on 1 April 1999. 15

“(2) Section CF 3 (1) (b) (iv) (A) does not apply to the interest.

“**CZ 4B. Election to use slice rule**—(1) A trustee of a group investment fund may elect, by giving notice to the Commissioner on or before 31 March 1999, to treat a superannuation fund interest in a group investment fund as being subject to section CF 3 (1) (b) (iv) (A), in which case **section CZ 4A** does not apply to the interest. 20 25

“(2) If an election is made under **subsection (1)**, section CF 3 (1) (b) (iv) (A) applies on and after 1 April 1999.”

43. Rules for calculating New Zealand group debt percentage—(1) After section FG 4 (10), the following is inserted: 30

“(11) If a taxpayer is subject to the interest apportionment rule in section FG 8 solely by virtue of section FG 2 (1) (b) (ii), section FG 4 (10) (b) applies as if subparagraph (iii) were omitted and subparagraph (iv) read—

“(iv) In which a person not resident in New Zealand who, under those rules, has control of the taxpayer by any other means whatsoever, has control by any other means whatsoever; and” 35

(2) **Subsection (1)** applies to tax on taxable income derived in the 1998–99 and subsequent income years.

44. Concession for on-lending—(1) Section FG 6 (1) is replaced by the following:

5 “(1) In calculating a taxpayer’s New Zealand group debt percentage, the amount of total debt and the amount of total assets at that time must be reduced by an amount equal to the outstanding balance of a financial arrangement of which the taxpayer (or another group member) is the holder, if—

10 “(a) The financial arrangement provides funds to the issuer; and

“(b) Consideration in respect of the financial arrangement is an arm’s length amount.

15 “(1A) **Subsection (1)** applies to a financial arrangement issued by a person who is—

“(a) Not resident in New Zealand and who does not carry on a business in New Zealand through a fixed establishment; or

20 “(b) Not associated with the taxpayer, unless section FG 8 applies to that person because of the application of section FG 2 and the person is not a member of the taxpayer’s New Zealand group.”

(2) **Subsections (1)** and **(1A)** apply to tax on taxable income derived in the 1998–99 and subsequent income years.

25 **45. Treatment of specified leases**—(1) Section FG 9 is replaced by the following:

“FG 9. **Treatment of specified leases and interest expense**—In this Subpart—

30 “(a) A deemed loan under section FC 6 (3) must be treated as a financial arrangement which provides funds to the issuer; and

“(b) Expenditure incurred by the lessee in respect of specified leases for which a deduction is allowed must be treated as an amount of interest under section DD 1 (b); and

35 “(c) Interest that is allowed as a deduction under section DD 3, or section DI 1 (1) (a) or (b), or section DL 1 (3) (c) must be treated as an amount of interest under section DD 1 (b), if not already allowed as a deduction under section DD 1 (b).”

40 (2) **Subsection (1)** applies to tax on taxable income derived in the 1998–99 and subsequent income years.

46. Sale of trading stock for an inadequate consideration—(1) In section GD 1 (2)—

(a) Paragraph (a) is replaced by the following:

“(a) The creation or grant (other than in favour of a proprietor or grantor) of a right to take timber must be treated as a sale or other disposition of trading stock of a kind referred to in paragraph (d) (iv) of the definition of ‘trading stock’.” 5

(b) In paragraph (b), the portion before subparagraph (i) is replaced by: 10

“(b) A sale or other disposition of land with standing timber on the land, unless the land is subject to a right in favour of the seller to take timber, is deemed to include a sale or other disposition of trading stock of a kind referred to in paragraph (iv) of the definition of ‘trading stock’, except to the extent the timber is—” 15

(2) After section GD 1 (3), the following is inserted:

“(3A) Subsection (3) does not apply to land with standing timber that is subject to a right to take standing timber.” 20

(3) **Subsections (1) and (2)** are deemed to have applied to rights to take timber created or granted during the 1997–1998 and subsequent income years.

47. Group investment funds—(1) In section HE 2 (3), in the definition of “designated sources”— 25

(a) At the end of paragraph (a), “; or” is replaced by “:”.

(b) Paragraph (b) is repealed.

(2) **Subsection (1)** applies on and after 1 April 1999.

48. Low income rebate—(1) Section KC 1 (2) is replaced by the following: 30

“(2) In an income year in which a taxpayer is an absentee for a period, the amount of rebate under subsection (1) is calculated by—

“(a) Increasing the net income of the taxpayer in the proportion that the number of days for which the taxpayer is resident bears to the number of days in the income year; and 35

“(b) Reducing the rebate in the proportion that the number of days for which the taxpayer is a resident bears to the number of days in the income year.” 40

(2) **Subsection (1)** applies to the 1999–2000 and subsequent income years.

49. Rebate in certain cases for housekeeper—(1) After section KC 4 (1), the following is added:

5 “(1A) A refund may be made under this section only if **section 41A** of the Tax Administration Act 1994 is complied with.

(2) **Subsection (1)** applies to qualifying payments made in the income year commencing 1 April 1999 and subsequent income years.

10 **50. Rebate in respect of gifts of money**—(1) After section KC 5 (3), the following is added:

“(3A) A refund may be made under this section only if **section 41A** of the Tax Administration Act 1994 is complied with.”

15 (2) **Subsection (1)** applies to gifts made in the income year commencing 1 April 1999 and subsequent income years.

51. Determination of net income—(1) After section KD 1 (1) (h), the following is added:

20 “(i) The Commissioner must have regard to the gross amounts of all income sources known to the Commissioner and, if the person has been issued an income statement under Part IIIA of the Tax Administration Act 1994, the sum of all amounts of gross income included in an income statement
25 issued to the person.”

(2) **Subsection (1)** applies to the income year commencing 1 April 2000 and to subsequent income years.

52. Credit of tax by instalments—(1) Section KD 5 (2) (c) is replaced by:

30 “(c) The tax file number of each child in relation to whom a credit of tax is claimed.”

(2) **Subsection (1)** applies to the income year commencing 1 April 2000 and to subsequent income years.

35 **53. Director–General to deliver credit of tax**—(1) In section KD 6 (4), the portion before paragraph (a) is replaced by:

“If, in relation to an income year, the Director–General makes a payment under this section to a person or to the spouse of a person on behalf of the person, the

Director-General must for each month in which a payment is made deliver to the Commissioner particulars of the payment in an employer monthly schedule—”

(2) **Subsection (1)** applies to payments made under section KD 7 on and after 1 April 1999.

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54. Tax deductions to be credited against tax assessed—(1) In section LD 1—

(a) Subsection (1) is omitted.

(b) In subsection (2)—

(i) The words before paragraph (a) are replaced by: 10

“If the Commissioner has made an assessment of income tax in respect of an employee for an income year, or is satisfied that no income tax is payable, and the Commissioner has received tax deductions from source deduction payments in relation to that employee for that income year, the Commissioner must credit all amounts of the tax deductions successively against:” 15

(ii) The proviso is replaced by:

“(2A) If the employee in subsection (1) is an employee of an employer that is a closed company, and— 20

“(a) The employee and the employer are associated persons, or the spouse of the employee and the employer are associated persons; and

“(b) The amount of tax deductions from source deduction payments shown in the employer monthly schedule was deducted from source deduction payments made to the employee by the employer— 25

the amount credited or refunded may not exceed the sum of the amount of the tax deductions received by the Commissioner and the amount of any credit of tax paid to the employee under Part KD.” 30

(2) Sections LD 1 (4) and (5) are replaced by:

“(4) The Commissioner must not credit a tax deduction in satisfaction of an income tax liability nor refund a tax deduction made in relation to an employee if the Commissioner considers any particular in an employer monthly schedule is incorrect. 35

“(5) A tax deduction referred to in **subsection (4)** may be credited in satisfaction of an income tax liability or refunded when the Commissioner is satisfied the particulars received are correct. 40

“(6) If a tax deduction relating to an employee is credited in satisfaction of an income tax liability or is refunded, and the amount credited or refunded—

5 “(a) Exceeds the amount that the employer deducted from a source deduction payment particulars of which are contained in an employer monthly schedule; or

“(b) If **subsection (2A)** applies and the amount credited or refunded exceeds the amount last mentioned in that subsection—

10 the employer and the employee are jointly and severally liable to pay to the Commissioner the amount of the excess, and that amount is deemed to be due and payable on the 31st of May in the year after the year to which the tax deductions were made.”

15 (3) **Subsections (1) and (2)** apply to tax deductions made on and after 1 April 1999.

55. Refund of excess tax—(1) After section MD 1 (1), the following is inserted:

20 “(1A) If as a result of the issue of an income statement, the amount of tax paid in excess and required to be refunded is more than \$50, or such greater amount as the Governor-General by Order in Council prescribes, the Commissioner must not refund the tax until the taxpayer has confirmed the income statement is correct.”

25 (2) After section MD 1 (3), the following is inserted:

“(3A) The Commissioner may apply a credit of tax allowed under section KD 5 in satisfaction of an amount added to tax payable under section KD 4 (2) in respect of a prior income year whether that amount is due and payable.”

30 (3) In section MD 1 (3), “MD 2” is replaced by “MD 1 (3A), MD 2,”.

(4) **Subsections (1) to (3)** apply on and after 1 April 2000.

56. Credits arising to tax credit account—(1) After section MJ 3 (2), the following are inserted:

35 “(3) Despite subsection (1) (b), an electing fund may not credit to its tax credit account an amount of an imputation credit attached to a dividend paid to the electing fund, directly or indirectly, by an entity that is wholly-owned by the electing fund if the amount formed all or part of the credit balance in
40 the wholly-owned entity’s imputation credit account on 31 March 1998.

“(4) **Subsection (3)** does not apply if the credit balance in the wholly-owned entity’s imputation credit account did not exceed \$1 million on 31 March 1998.”

(2) **Subsection (1)** is deemed to have applied on and after 1 April 1998.

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57. Credits arising to life office tax credit account—

(1) After section MJ 6 (2), the following are inserted:

“(3) Despite **subsection MJ 6 (1)(a)**, an electing fund may not credit to its tax credit account an amount debited to the electing fund’s policyholder credit account if the amount, at any time prior to forming all or part of the credit balance in the policyholder credit account, on 31 March 1998 formed all or part of the credit balance in the imputation credit account of an entity that was a member of the same wholly-owned group of companies as the electing fund on that date.

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“(4) **Subsection (3)** does not apply if the credit balance in the member’s imputation credit account did not exceed \$1 million on 31 March 1998.”

(2) **Subsection (1)** is deemed to have applied on and after 1 April 1998.

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58. Application of tax codes specified in tax code declarations or tax code certificates—(1) In section NC 8—

(a) In subsection (1), in paragraph (b), “T” is replaced by “ML”, and “, other than a payment of any of the kinds referred to in clauses 6 and 7 of Schedule 19,” is omitted:

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(b) In subsection (1), in paragraph (c), “G” is replaced by “M”, and “, other than a payment of any of the kinds referred to in clauses 6 and 7 of Schedule 19,” is omitted:

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(c) In subsection (1), in paragraph (d), “Sec” is replaced by “S”, and “, other than a payment of any of the kinds referred to in clauses 6 and 7 of Schedule 19,” is omitted:

(d) In subsection (1), paragraph (e) is replaced by:

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“(e) ‘SH’, signifying an employee in relation to whom the source deduction payment is secondary income and who has annual taxable income greater than \$38,000.”

(e) In subsection (1), paragraphs f and g are omitted:

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(f) In subsection (4), “subsection (5) or” is omitted:

(g) Subsections (5) and (6) are omitted:

(h) In subsection (7), “a ‘G’ or ‘T’ or ‘Sec’ or ‘SSH’ or ‘CAW’ ” is replaced by “an ‘M’ or ‘ML’ or ‘S’ or ‘SH’ ”:

(i) In subsection (8), the expression “a ‘G’ or ‘T’ or ‘Sec’ or ‘SHR’ or ‘SSH’ or ‘CAW’ ” is replaced by “an ‘M’ or ‘ML’ or ‘S’ or ‘SH’ ”:

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(2) **Subsection (1)** applies on and after 1 April 1999.

59. New section inserted—(1) After section NC 12, the following is inserted:

10 “NC 12A. **Employee using incorrect tax code**—(1) If the Commissioner considers an employer has applied an incorrect tax code to source deduction payments made to an employee, the Commissioner may, by notice to the employer, specify the employee’s tax code declaration and notify the employer of the tax code that the Commissioner considers should apply to

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source deduction payments made to the employee.
“(2) An employer who receives a notice under **subsection (1)** must apply the tax code specified by the Commissioner to source deduction payments made to the employee after the date of notification, despite section NC 8 (2).

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“(3) An amended tax code specified by the Commissioner under **subsection (1)** ceases to apply from the last day of the year in which the Commissioner notified the tax code to the employer or from the date on which the Commissioner notifies an employer of its cessation.”

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(2) **Subsection (1)** applies on and after 1 April 1999.

60. Payment of tax deductions to Commissioner—(1) In section NC 15 (1), paragraphs (a) to (i) are replaced by:

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“(a) Unless **paragraphs (c)** or **(d)** apply, not later than the 20th day of the month in which the employer makes such a deduction in the first PAYE period, pay to the Commissioner the amount of the tax deduction and deliver to the Commissioner a remittance certificate signed by the employer:

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“(b) Unless **paragraphs (c)** or **(d)** apply, not later than the 5th day of the month following a month in which the employer makes a deduction in the second PAYE period, or the 15th day of January if December is the month in which the deduction is made, pay to the Commissioner the amount of the tax deductions and deliver to the Commissioner by electronic means and in the prescribed electronic format (unless **section 36B** applies) an employer monthly

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schedule, and a remittance certificate signed by the employer:

“(c) If the employer was an employer in the preceding year and gross tax deductions payable and specified superannuation contribution withholding tax payable in that preceding year were, in the aggregate, less than \$100,000; not later than the 20th of the month following a month in which the employer has made such a deduction (the “deduction month”), pay to the Commissioner the amount of the tax deductions, deliver to the Commissioner an employer monthly schedule signed by the employer and deliver to the Commissioner a remittance certificate signed by the employer: 5 10 15

“(d) If the employer was not an employer in the preceding year, until the time when gross tax deductions and specified superannuation contribution withholding tax payable in the current year in the aggregate exceeded \$100,000, not later than the 20th of the month following a month in which the employer has made such a deduction (the “deduction month”), pay to the Commissioner the amount of the tax deductions, deliver to the Commissioner an employer monthly schedule signed by the employer and deliver to the Commissioner a remittance certificate signed by the employer: 20 25

“(e) Not later than the 15th day of the second month after the month in a year in which the employer disposes of or otherwise stops carrying on a business in respect of which the employer has made tax deductions, notify the Commissioner of the disposal or cessation of conduct of the business in respect of which tax deductions were made.” 30

(2) Section NC 15 (2) is replaced by: 35

“(2) The Commissioner may exempt an employer or a class of employers from the requirement to provide a remittance certificate under **section NC 15 (1) (b)**, or **(c)**, or **(d)** if the information required to be included in a remittance certificate is provided by in an employer monthly schedule.” 40

(3) **Subsections (1) and (2)** apply on and after 1 April 1999.

61. Employee to pay deductions to Commissioner—

(1) In section NC 16 (1), paragraph (a) is replaced by:

5 “(a) Not later than the 20th day of the month that next follows the month in which payment of the source deduction payment was made, furnish to the Commissioner an employer monthly schedule containing those particulars that apply to the employee; and”

(2) **Subsection (1)** applies on and after 1 April 1999.

62. Assessment and payment of tax—(1) The proviso to section NC 17 (1) is omitted.

10 (2) **Subsection (1)** applies to income years commencing on and after 1 April 1999.

63. Bond, etc., in lieu of tax deductions in case of certain non-resident employees—(1) Section NC 18 (2) is replaced by:

15 “(2) If the Commissioner accepts from an employer a bond or other security under subsection (1), then, in respect of an employee and the period to which the bond or security applies—

20 “(a) No tax deduction under the PAYE rules must be made by an employer from a source deduction payment made to the employee; and

25 “(b) Information in relation to an employee that is, but for this paragraph, required to be included in an employer monthly schedule must not be included in that schedule; and

“(c) The non-declaration rate must not be applied in relation to a source deduction payment made to the employee.”

(2) **Subsection (1)** applies on and after 1 April 1999.

30 **64. New section inserted**—(1) After section NF 2, the following is inserted:

35 “NF 2A. **Election to apply higher rate of deduction**—(1) A person entitled to receive a payment to which section NF 2 (1) applies may elect, in the manner prescribed by the interest payer, to make that payment subject to the deduction of resident withholding tax at the higher rate specified in **Schedule 14, clause 1 (b)**.

40 “(2) An election under **subsection (1)** can be made only in respect of payments subject to resident withholding tax on or after 1 April 1999.

“(3) A notice of election under this section applies to each deduction of resident withholding tax required to be made on or after the date on which the notice is furnished to the person required to make the deduction.”

(2) **Subsection (1)** applies on and after 1 January 1999. 5

65. Cancellation of certificates of exemption—(1) In section NF 11—

(a) In subsection (5), “, whether or not that information has been published under **subsection (9)**,” is inserted after “*Gazette*”. 10

(b) After subsection (7), the following are added:

“(8) The Commissioner may, at any time after publication of the lists of certificates required to be published under subsection (5), publish those lists of certificates by electronic means. 15

“(9) **Subsection (8)** applies to lists of certificates the issue or cancellation of which was required to be published in the *Gazette* before the commencement of this subsection.

(2) **Subsection (1)** comes into force on the date on which this Act receives the Royal assent. 20

66. Interpretation—(1) In section OB 1—

(a) In the definition of ‘employee’, after paragraph (d), is inserted:

“(e) In section CB 12, despite paragraph (a), includes a person to whom section OB 2 (2) applies.” 25

(b) The following are inserted:

“‘Electronic format’ means the format and the electronic means by which a return or particulars which are furnished electronically are provided:

“‘Employer monthly schedule’ means a form an employer must provide to the Commissioner in either manual format or in electronic format showing: 30

“(i) The name and tax file number of the employer; and

“(ii) The name of every person who was an employee of the employer at any time during the period to which the employer monthly schedule relates; and 35

“(iii) If supplied to the employer, the tax file number of each employee to whom **paragraph (ii)** refers; and 40

- 5 “(iv) The tax code of an employee to whom a source deduction payment that is not an extra emolument is made; and
- “(v) For each employee in the month to which the schedule relates, the amount of gross earnings, the total amount of tax deductions made, and the amount of earnings not liable to the earner premium; and
- 10 “(vi) If applicable, particulars of child support and student loan deductions made; and
- “(vii) In the month in which an employee commences, the date on which that employee commenced to be an employee of the employer; and
- 15 “(viii) In the month in which an employee ceased, the date on which the employee ceased to be an employee of the employer; and
- “(ix) Identify each employee who received an extra emolument at a rate less than the rate specified in Schedule 19, clause 8B; and
- 20 “(x) Other particulars required by the Commissioner in respect of a class of employer.
- 25 “ ‘Remittance certificate’ means a certificate in a form authorised by the Commissioner and showing—
- “ (a) The total amount of tax deductions; and
- 30 “ (b) The total child support deductions; and
- “ (c) The total student loan deductions; and
- “ (d) The name of the employer; and
- “ (e) The tax file number of the employer; and
- “ (f) The period to which the remittance certificate relates; and
- 35 “ (g) The amount of specified superannuation contribution paid and the amount of specified superannuation contribution withholding tax deducted; and
- “ (h) Any similar information the Commissioner may require—for the PAYE period to which the certificate relates:
- 40 “ ‘Specified office holder’, for the purposes of this Act but not otherwise, means a judicial officer whose salary and principal allowances are determined by the

Higher Salaries Commission, a Member of Parliament, or an elected member of a local authority.”

(2) **Subsections (1) (a) and (b)** apply on and after 1 April 1999.

67. Meaning of source deduction payment—shareholder—employees of close companies—(1) In section OB 2 (1), after “an extra emolument,” “a payment made to a specified office holder in respect of the activities of a specified office,” is inserted. 5

(2) **Subsection (1)** applies on and after 1 April 1999. 10

68. Schedule 14 amended—(1) In Schedule 14, clause 1 is replaced by:

“1. For the purposes of section NF 2, the rate of resident withholding tax deduction from payments of resident withholding income is— 15

“(a) If neither **paragraph (b)** nor **paragraph (c)** applies, a non-declaration rate of 33 cents:

“(b) A rate of 33 cents, if the payer of the interest is supplied with the tax file number of—

“(i) The person to whom the interest is paid and that person has made an election to apply the higher rate of resident withholding tax deduction; or 20

“(ii) If the interest is paid to more than one person, one of them has made an election to apply the higher rate of resident withholding tax deduction: 25

“(c) A rate of 19.5 cents, if the payer of the interest has not received an election to apply the higher rate of resident withholding tax deduction and has been supplied with the tax file number of— 30

“(i) The person to whom the interest is paid; or

“(ii) One of the persons to whom the interest is paid.”

(2) In **clause 1 (a)**, “33 cents” is replaced by “45 cents”.

(3) **Subsection (1)** applies to interest paid on or after 1 April 1999. 35

(4) **Subsection (2)** applies to interest paid on or after 1 April 2000.

69. Schedule 19 amended—(1) In Schedule 19—

(a) In clause 2, “33 cents per \$1” is replaced by “45 cents per \$1”. 40

(b) Clauses 6, 7, and 7A are omitted.

(c) In clause 7B, “20 cents” is replaced by “21 cents”.

(2) **Subsection (1)** applies to payments of salary or wages to an employee made on or after 1 April 1999.

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PART 3

AMENDMENT TO ACCIDENT REHABILITATION AND
COMPENSATION INSURANCE ACT 1992

10 **70. Accident Rehabilitation and Compensation Insurance Act 1992**—This Part amends the Accident Rehabilitation and Compensation Insurance Act 1992 (hereinafter referred to as the principal Act) and is to be read together with and is deemed part of that Act.

15 **71. Power of Corporation in respect of small amounts**—(1) Section 132 of the principal Act is amended by omitting the expression “\$5” and substituting the expression “\$20”.

(2) **Subsection (1)** applies on and after 1 April 1999.

PART 4

AMENDMENTS TO CHILD SUPPORT ACT 1991

20 **72. Child Support Act 1991**—This Part amends the Child Support Act 1991 (hereinafter referred to as the principal Act) and is to be read together with and is deemed part of that Act.

25 **73. Basic amount of child support payable**—(1) Section 29 (1) of the principal Act is amended by omitting the item “taxable income” and substituting the following:

“‘Taxable income’ has the meaning provided in section OB 1 of the Income Tax Act 1994 and—

30 “(a) If the Commissioner has not assessed a liable parent’s taxable income for an income year and no income statement has been issued, the taxable income for the income year may be determined on the basis of the income and any other particulars known to the Commissioner; and

35 “(b) The taxable income of a liable parent who receives an income statement in respect of an income year for which taxable income has not been assessed by the Commissioner is the amount of taxable income shown on the income statement.”

(2) **Subsection (1)** applies on and after 1 April 1999.

74. Application requirements—(1) After section 14 (1) (e), the following is inserted:

“(ea) The tax file number (as defined in section OB 1 of the Income Tax Act 1994) of the qualifying child is provided; and”

(2) **Subsection (1)** applies on and after 1 April 1999.

75. Section replaced—(1) Section 216 is replaced by:

“**216. Applications for refunds of excess financial support**—An application for a refund of an amount of financial support paid in excess must be made in the manner required under **section 184A** of the Tax Administration Act 1994.”

(2) **Subsection (1)** applies to applications for refunds of amounts paid in excess made on and after 1 April 2000.

PART 5

AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

76. Estate and Gift Duties Act 1968—This Part amends the Estate and Gift Duties Act 1968.

77. Refund of estate duty, penalty, and interest paid in excess—(1) After section 60 (4), the following is inserted:

“(5) A refund under this section must be made in accordance with the requirements of **section 184A** of the Tax Administration Act 1994.”

(2) **Subsection (1)** applies to refunds of estate duty, penalty, and interest paid in excess arising on and after 1 April 2000.

78. Refund of gift duty, penalty, and interest paid in excess—(1) After section 89 (3), the following is inserted:

“(4) A refund made under this section must be made in accordance with the requirements of **section 184A** of the Tax Administration Act 1994.

(2) **Subsection (1)** applies to refunds of gift duty, penalty, and interest paid in excess arising on and after 1 April 2000.

PART 6

AMENDMENT TO GAMING DUTIES ACT 1971

79. Gaming Duties Act 1971—This Part amends the Gaming Duties Act 1971.

80. Refund of duty or interest paid in error or in excess—(1) After section 13 (2), the following is inserted:

“(3) A refund under this section must be made in accordance with the requirements of **section 184A** of the Tax Administration Act 1994.”

5 (2) **Subsection (1)** applies to duty or interest paid in excess on and after 1 April 2000.

PART 7

AMENDMENT TO SOCIAL SECURITY ACT 1964

10 **81. Social Security Act 1964**—This Part amends the Social Security Act 1964 (hereinafter referred to as the principal Act) and is to be read together with and is deemed part of that Act.

82. Duty to supply tax file number and consequence of failure to do so—(1) The principal Act is amended by repealing section 82A, and substituting the following section:

15 “82A. (1) The Director-General may in writing request an applicant for a benefit or a beneficiary to provide evidence, to the satisfaction of the Director-General, of the tax file number of the applicant or beneficiary.

20 “(2) The Director-General may refuse to grant a benefit and must suspend payment of a benefit if satisfactory evidence of the tax file number of the applicant or the beneficiary is not received within 10 working days after the date on which the Director-General requests the evidence.

25 “(3) The Director-General may extend to a date to be specified in writing the time for delivery of the evidence referred to in **subsection (1)** if an applicant or a beneficiary provides a reasonable explanation for not providing the evidence within the time prescribed in **subsection (2)**.

30 “(4) This section does not apply to a beneficiary who is unable to provide satisfactory evidence of the beneficiary’s tax file number within the time specified because of sickness, injury, or disability.

 “(5) In this section, “tax file number” has the same meaning as in section OB 1 of the Income Tax Act 1994.”

(2) **Subsection (1)** applies on and after 1 April 1999.

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PART 8

AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971

83. Stamp and Cheque Duties Act 1971—This Part amends the Stamp and Cheque Duties Act 1971.

40 **84. Refund of duty or penalty on application**—(1) In section 68, the following is inserted:

“(1) If at any time within 8 years after payment of any stamp duty or penalty or within such further time if written application for the refund of the duty or penalty is made by the person entitled to it within that 8 years, the Commissioner is satisfied that—

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“(a) The duty or penalty was paid in error or in excess of the amount properly payable; or

“(b) The duty or penalty was paid on an instrument which on its execution was not a fully operative instrument, and that the instrument failed to become fully operative and was cancelled or destroyed, and that the failure was not due to the act, omission, or default of the person by whom the duty or penalty was paid or to the act, omission, or default of any other person with the consent, acquiescence, connivance, or concurrence of the person by whom the duty or penalty was paid; or

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“(c) The duty or penalty was paid on an instrument of conveyance or a lease which was not carried into effect, whether directly or indirectly, in favour of the person to whom the conveyance is made or the lessee or any person claiming under the person to whom the conveyance is made or the lessee, and was rescinded; or

20

“(d) The duty or penalty was paid on an instrument that was inadvertently spoiled, defaced, lost, or destroyed, and that another instrument made in substitution for it between the same parties and for the same purpose was executed and stamped,—

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the duty or penalty may be refunded.”

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(2) **Subsection (1)** is deemed to have applied with respect to every instrument of conveyance executed, every bill of exchange made, drawn, or prepaid under sections 81 to 83 of the principal Act and every liable transaction entered into on or after 1 April 1997.

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85. Refund of cheque duty—(1) Section 85 is amended by renumbering the current provision as subsection (1); and adding the following:

“(2) A refund under subsection (1) must be made in accordance with the requirements of **section 184A** of the Tax Administration Act 1994.”

40

(2) **Subsection (1)** applies to refunds of cheque duty arising on and after 1 April 2000.

86. Refund of levy paid in error or in excess—(1) After section 86L (1), the following is added:

5 “(1A) A refund under subsection (1) must be made in accordance with the requirements of **section 184A** of the Tax Administration Act 1994.”

(2) **Subsection (1)** applies to levies paid in error or in excess on and after 1 April 2000.

PART 9

AMENDMENTS TO STUDENT LOAN SCHEME ACT 1992

10 **87. Student Loan Scheme Act 1992**—This Part amends the Student Loan Scheme Act 1992 (hereinafter referred to as the principal Act) and is to be read together with and is deemed part of that Act.

15 **88. Commissioner to assess borrower’s repayment obligation**—(1) In section 15 of the principal Act, subsection (1) is amended by omitting the word “As” and substituting the expression “Unless **section 33A (1)** of the Tax Administration Act 1994 applies, as”.

(2) Section 15 (3) is omitted and the following substituted:

20 “(3) In making an assessment under this section, the Commissioner may have regard to—

“(a) A return furnished under the Tax Administration Act 1994; or

25 “(b) The sum of all amounts of gross income included in that income statement in the case of a borrower who has received an income statement; or

30 “(c) The sum of all amounts of gross income known to the Commissioner for a borrower not required to furnish a return of income or receive an income statement under the Tax Administration Act 1994.

(3) In this section ‘income statement’ has the same meaning as in section OB 1 of the Income Tax Act 1994.”

35 (4) This section applies to Student Loan repayment obligations in relation to the 1999-2000 and subsequent income years.

89. Borrowers to whom repayment deduction provisions of this Part apply—(1) Section 17 (2) (a) and (b) are omitted.

(2) **Subsection (1)** comes into force on and after 1 April 1999.

90. Periods in which interest write-off and interest reduction apply—(1) In section 41 (c), “assessable income.” is replaced by “assessable income, or has responded to an income statement or other return prescribed by the Commissioner for the purposes of this section.”

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(2) **Subsection (1)** applies on and after 1 April 1999.

91. Excess repayments made by residents—(1) After section 56 (1), the following is inserted:

“(1A) Unless subsection (1) (g) applies, a refund of an amount paid in excess of a borrower’s repayment obligation must be made in the manner required under **section 184A** of the Tax Administration Act 1994.”

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(2) **Subsection (1)** applies to amounts paid in excess of borrowers’ repayment obligations arising on and after 1 April 2000.

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92. Election by non-resident to receive refund or to apply overpayment to loan balance—(1) After section 57 (2), the following is inserted:

“(2A) Unless subsection (4) applies, a refund of an amount paid in excess of a borrower’s repayment obligation must be made in the manner required under **section 184A** of the Tax Administration Act 1994.”

20

(2) **Subsection (1)** applies to amounts paid in excess of borrowers’ repayment obligations arising on and after 1 April 2000.

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