

TAXATION REFORM BILL

EXPLANATORY NOTE

THIS Bill amends the Income Tax Act 1976, the Goods and Services Tax Act 1985, and the Estate and Gift Duties Act 1968.

Clause 1 relates to the Short Title.

PART I INCOME TAX

This Part amends the Income Tax Act 1976.

Clause 3 amends section 17 of the principal Act, which provides for the dates by which annual returns are to be furnished, so that provisional taxpayers are required to furnish returns by 7 July instead of 7 August.

Clause 4 inserts into the principal Act a new section 64FA dealing with rural debt restructuring.

It provides that where any amount owing under a variable principal debt instrument is remitted before 31 December 1988 in the course of rearrangement of a debtor's liabilities due to the financial difficulties of the debtor that render doubtful the capacity of the debtor to carry on the business of livestock farming, horticulture, cropping, or agricultural contracting the remission is not, to the extent of the specified principal (as defined) of the principal debt instrument to be taken into account under the accruals provisions in calculating the assessable income of the debtor.

Clause 5 amends section 86E of the principal Act, which provides for a deduction in respect of livestock revaluation, to enable the estate of a farmer who died after 12 December 1985 and before the end of the 1985/86 income year to be treated the same as a farmer who retired during that period.

Clause 6 inserts into the principal Act a new section 86FA enabling a farmer who so elects to spread all or part of the livestock revaluation income derived in the 1986/87 income year which does not qualify for the write-off or spread under the present transitional provisions. This income may be spread in whole or in part over either or both of the 1987/88 and 1988/89 income year.

No. 12—1

Price
incl. GST \$1.90

Clause 7 amends section 134 of the principal Act, which deals with deductions in respect of farmers' expenditure on tree planting, to exclude expenditure incurred on trees planted primarily and principally for the production of fruit.

Clause 8 amends section 140B of the principal Act, which deals with accounting for goods and services tax, to provide that an amount equal to the sales tax credit deducted by any person under section 83 (2) of the Goods and Services Tax Act 1985 is to be included in the assessable income of that person.

Clause 9 amends section 356 of the principal Act, which defines the expression "pay period taxpayer", by increasing the maximum income from employment from \$11,500 to \$20,000. This will result in persons deriving income from employment not exceeding \$20,000, subject to certain conditions, not being required to furnish a tax return and the income tax being determined exclusively and finally by the amount of the PAYE deductions required to be made during that year.

Clause 10 inserts a definition of the term "standard value" into section 374A of the principal Act, which is the interpretation section for the family support provisions.

Clause 11 amends section 374B of the principal Act, which determines the assessable income of a taxpayer for the purpose of ascertaining the eligibility to payment of family support.

In relation to the assessable income derived from livestock—

- (a) The amount of income spread over 5 years pursuant to section 86F of the principal Act is no longer to be assessable income in the year in which it was actually derived:
- (b) The amount of income deferred for up to 2 years pursuant to section 86FA of the principal Act (as inserted by *clause 6*) is to be assessable income in the year in which it was actually derived:
- (c) Where any herd livestock is valued under section 86A of the principal Act, the amount of the assessable income derived from that livestock is to be adjusted to the amount it would have been had the livestock been valued at standard values.

Clause 12 amends section 377 of the principal Act, which deems certain persons to be provisional taxpayers, to exclude persons deriving \$3,000 or less from interest, dividends, or rents in the income year. At present the limit for the exclusion is \$1,000 or less.

PART II GOODS AND SERVICES TAX

This Part amends the Goods and Services Tax Act 1985 and is deemed to have come into force on 23 September 1987, and to apply to supplies made on or after that date.

Clause 14 amends section 5 of the principal Act, which defines the meaning of the term "supply", to exclude any payment that is to indemnify or compensate for any loss of earnings (being earnings within the meaning of the Accident Compensation Act 1982).

Clause 15 amends section 20 of the principal Act, which deals with the calculation of tax payable, to exclude any tax fraction of any payment that is to indemnify or compensate for any loss of earnings (being earnings within the meaning of the Accident Compensation Act 1982).

PART III
ESTATE AND GIFT DUTIES

This Part amends the Estate and Gift Duties Act 1968.

Clause 17 inserts into the principal Act a new section 35BA providing for an exemption from estate duty in relation to the base price adjustment for income tax purposes.

It provides that where and to the extent that any liability under a financial arrangement is forgiven or otherwise remitted, in whole or in part, under the will of the deceased, and that forgiveness or other remission is required to be taken into account under sections 64B to 64M of the Income Tax Act 1976 in calculating the assessable income of any person, the financial arrangement is not to be included in the deceased's estate.

The section is to apply to the estates of persons dying on or after 1 October 1987.

Clause 18 inserts into the principal Act a new section 75B providing for an exemption from gift duty in relation to the base price adjustment for income tax purposes.

It provides that where and to the extent that any liability under a financial arrangement is forgiven or otherwise remitted, in whole or in part, and that forgiveness or other remission is required to be taken into account under sections 64B to 64M of the Income Tax Act 1976 in calculating the assessable income of any person, that forgiveness or other remission is not to constitute a gift for the purpose of the principal Act.

The section is to apply to gifts made on or after 1 October 1987.

Hon. T. A. de Cleene

TAXATION REFORM

ANALYSIS

Title	11. Determination of assessable income
1. Short Title	12. Provisional taxpayers
PART I	
INCOME TAX	
2. This Part to be read with Income Tax Act 1976	PART II
3. Dates by which annual returns to be furnished	GOODS AND SERVICES TAX
4. Rural debt restructuring	13. This Part to be read with Goods and Services Tax Act 1985
5. Deduction in respect of livestock revaluation	14. Meaning of the term "supply"
6. Deferral of income derived from livestock in 1987 year	15. Calculation of tax payable
7. Farmers expenditure on tree planting	PART III
8. Accounting for goods and services tax	ESTATE AND GIFT DUTIES
9. Interpretation	16. This Part to be read with Estate and Gift Duties Act 1968
10. Interpretation	17. Exemption in relation to base price adjustment for income tax purposes
	18. Exemption in relation to base price adjustment for income tax purposes

A BILL INTITULED

An Act to reform the taxation Acts

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

1. Short Title—This Act may be cited as the Taxation
5 Reform Act 1987.

PART I

INCOME TAX

2. This Part to be read with Income Tax Act 1976—This Part of this Act shall be read together with and deemed part of the Income Tax Act 1976* (in this Part referred to as the principal Act). 5

3. Dates by which annual returns to be furnished—
 (1) Section 17 (2) (a) of the principal Act is hereby amended—
 (a) By omitting the word “August”, and substituting the word “July”; and 10
 (b) By omitting the word “June”, and substituting the word “May”.

(2) Section 17 (2) (b) of the principal Act is hereby amended by omitting the word “June”, and substituting the word “May”.

(3) This section shall apply with respect to annual returns of 15 income required to be furnished in relation to income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year.

4. Rural debt restructuring—(1) The principal Act is hereby amended by inserting, after section 64F (as inserted by 20 section 2 of the Income Tax Amendment Act 1987), the following section:

“64FA. (1) For the purposes of this section—

“Debtor”, in relation to a variable principal debt instrument at any time, means a person having a 25 liability, other than a liability to make further advances if called upon to do so, under the variable principal debt instrument at the time:

“Livestock farming’ means the business of animal husbandry; and includes poultry-keeping, bee- 30 keeping, and the breeding of horses (other than bloodstock):

“Specified principal’, in relation to a variable principal debt instrument, means the least of—

“(a) The amount of the liability under the variable 35 principal debt instrument, at the beginning of the 2nd day of July 1986, of the person who is the debtor at the time of any remission (to which subsection (2) or subsection (3) of this section applies) of an amount

*R.S. Vol. 12, p. 1

Amendments: 1983, No. 4; 1983, No. 10; 1983, No. 139; 1984, No. 10; 1985, No. 1; 1985, No. 59; 1985, No. 125; 1986, No. 3; 1986, No. 7; 1986, No. 41; 1986, No. 117; 1987, No. 66; 1987, No. 104

owing under the variable principal debt instrument or a financial arrangement that replaces the person's liability under the variable principal debt instrument; or

5 “(b) Where and to the extent that the liability under the variable principal debt instrument is replaced with a liability under another financial arrangement, the amount of the least liability, under
10 the variable principal debt instrument at the beginning of any day after the 2nd day of July 1986 and before the time at which the liability is so replaced, of the person who is the debtor at the time of any remission (to which **subsection (3)** of this section applies) of an amount owing under the other financial arrangement; or

15 “(c) Where and to the extent that the liability under the variable principal debt instrument is not replaced with a liability under another financial arrangement, the amount of the least liability, under
20 the variable principal debt instrument at the beginning of any day after the 2nd day of July 1986 and before the time at which an amount owing under the variable principal debt instrument is remitted, of the person who is the debtor at the time of any
25 remission (to which **subsection (2)** of this section applies) of an amount owing under the variable principal debt instrument.

“(2) Where an amount owing under a variable principal debt instrument—

30 “(a) Owed by a person who incurred the debt in the course of business—

 “(i) As a farmer engaged in livestock farming, horticulture, or cropping; or

 “(ii) As an agricultural contractor; and

35 “(b) Incurred before the 2nd day of July 1986—
is forgiven or otherwise remitted (in whole or in part) before the 31st day of December 1988 in the course of a rearrangement of the debtor's liabilities due to financial difficulties of the debtor that render doubtful the capacity of
40 the debtor to carry on in the business of livestock farming, horticulture, cropping, or agricultural contracting and the forgiveness or other remission would otherwise be required to be taken into account under sections 64B to 64M of this Act in calculating the debtor's assessable income, the forgiveness or
45 other remission shall not, to the extent of the specified

principal of the variable principal debt instrument in relation to the debtor, be taken into account in calculating the debtor's assessable income.

“(3) Where an amount owing under a variable principal debt instrument— 5

“(a) Owed by a person who incurred the debt in the course of business—

“(i) As a farmer engaged in livestock farming, horticulture, or cropping; or

“(ii) As an agricultural contractor; and 10

“(b) Incurred before the 2nd day of July 1986—

is replaced with a liability under another financial arrangement (whether or not the financial arrangement also replaces other liabilities) and the financial arrangement is forgiven or otherwise remitted (in whole or in part) before the 31st day of December 1988 in the course of a rearrangement of the debtor's liabilities due to financial difficulties of the debtor that render doubtful the capacity of the debtor to carry on in the business of livestock farming, horticulture, cropping, or agricultural contracting and the forgiveness or other remission would otherwise be required to be taken into account under sections 64B to 64M of this Act in calculating the debtor's assessable income, the forgiveness or other remission shall not, to the extent of the specified principal of the variable principal debt instrument in relation to the debtor, be taken into account in calculating the debtor's assessable income.” 15 20 25

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1985 and every subsequent income year commencing before the 1st day of April 1990. 30

5. Deduction in respect of livestock revaluation—

Section 86E (2) of the principal Act (as inserted by section 8 of the Income Tax Amendment Act (No. 4) 1986 and amended by section 22 of the Income Tax Amendment Act (No. 2) 1987) is hereby amended, as from its commencement, by repealing item a, and substituting the following item: 35

“a is—

“(i) Notwithstanding sections 89, 91, and 91A of this Act, the amount realised by that taxpayer on any sale or other disposal of the specified livestock, owned by that taxpayer at the beginning of that income year, made in that income year; or 40

“(ii) Where that taxpayer dies during that income year, the sum of—

5 “(A) Notwithstanding sections 89, 91, and 91A of this Act, the amount realised by that taxpayer on any sale or other disposal of the specified livestock, owned by that taxpayer at the beginning of that income year, before the date of death; and

10 “(B) The value of the specified livestock, owned by that taxpayer at the beginning of that income year, to be taken into account at the date of death of the taxpayer for the purposes of the Estate and Gift Duties Act 1968.”

6. Deferral of income derived from livestock in 1987 year—The principal Act is hereby amended by inserting, after
15 section 86F (as inserted by section 8 of the Income Tax Amendment Act (No. 4) 1986 and amended by section 23 of the Income Tax Amendment Act (No. 2) 1987), the following section:

20 “86FA. (1) For the purposes of this section, the term ‘deferrable livestock valuation income’, in relation to any specified livestock owned by any taxpayer at the end of the income year that ended with the 31st day of March 1987, means the amount (if a positive amount) calculated in accordance with the following formula:

25
$$a - (b - c) - d$$

where—

a is—

30 (i) The total value of specified livestock (other than high-priced livestock as defined by section 86C(1) of this Act) to be taken into account at the end of the income year that ended with the 31st day of March 1987 pursuant to section 85(4A) of this Act; less

35 (ii) The total value of specified livestock (other than high-priced livestock as defined in section 86C(1) of this Act) taken into account at the end of the income year that ended with the 31st day of March 1986 pursuant to section 85(4) or, as the case may be, section 86(2) of this Act; and

40 b is the cost of purchase or capture of all herd livestock (other than high-priced livestock as defined in section 86C(1) of this Act) purchased or captured in the income year that ended with the 31st day of March 1987; and

- c is the amount received from the sale of herd livestock (other than high-priced livestock as defined in section 86C (1) of this Act) in the income year that ended with the 31st day of March 1987; and
- d is the sum of— 5
- (i) The amount of any deduction allowed to the taxpayer under section 86E (3) of this Act; and
 - (ii) The amount of any livestock revaluation income specified by section 86F (1) of this Act; and
 - (iii) The amount of any loss incurred by the 10 taxpayer in the income year that ended with the 31st day of March 1987 together with any losses (if any) available pursuant to section 188 of this Act.

“(2) For the purposes of **subsection (1)** of this section, where item c, in the formula set out in that subsection, exceeds item b 15 in that formula, the expression ‘(b - c)’ shall be deemed to be nil.

“(3) Where any taxpayer derives income from specified livestock during the income year that ended with the 31st day of March 1987, that taxpayer shall, if the taxpayer so elects by 20 notice in writing in accordance with **subsection (4)** of this section (which election shall be irrevocable after the 31st day of March 1988), be entitled to allocate the deferrable livestock valuation income, in such manner as the taxpayer specifies in the election, to that income year and the 2 income years 25 immediately succeeding that income year, and in every such case the amount of income so allocated shall be deemed to be income derived by the taxpayer in the income year to which it is so allocated.

“(4) Every notice under **subsection (3)** of this section shall be 30 given to the Commissioner on or before the 31st day of March 1988 or, where the 1987 return of income is not furnished by that date, the date on which that return is furnished.

“(5) Any allocation made under **subsection (3)** of this section may be at any time cancelled by the Commissioner, and in 35 every such case the whole of the deferrable livestock valuation income so allocated shall be deemed to have been derived by the taxpayer in the income year immediately preceding the income year in respect of which the allocation is cancelled, except to the extent to which the income has been allocated to 40 and assessed for any earlier income year.

“(6) Every reference in this section to an income year shall, where the taxpayer furnishes a return of income under section 15 of this Act for an accounting year ending with an annual balance date other than the 31st day of March, be deemed to 45

be a reference to the accounting year corresponding with that income year, and, in every such case, this section shall, with any necessary modifications, apply accordingly.”

- 7. Farmers expenditure on tree planting**—(1) Section 5 134 (1) of the principal Act (as substituted by section 14 of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by inserting, after the words “Forestry Encouragement Act 1962”, the words “or trees planted primarily and principally for the production of fruit”.
- 10 (2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year.

- 8. Accounting for goods and services tax**—(1) Section 140B of the principal Act (as inserted by section 29 (1) of the 15 Income Tax Amendment Act (No. 4) 1986) is hereby amended by inserting, after subsection (2), the following subsection:
- “(2A) Notwithstanding anything in subsection (2) of this section, in calculating the assessable income of any person for the income year that commenced on the 1st day of April 1986, 20 there shall be included an amount equal to the sales tax credit deducted by that person pursuant to section 83 (2) of the Goods and Services Tax Act 1985.”
- (2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of 25 April 1986.

- 9. Interpretation**—(1) Section 356 (1) of the principal Act is hereby amended by omitting from paragraph (aa) (as inserted by section 13 (2) of the Income Tax Amendment Act 1980) the expression “\$11,500”, and substituting the expression 30 “\$20,000”.
- (2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year.

- 10. Interpretation**—(1) Section 374A of the principal Act (as 35 inserted by section 17 of the Income Tax Amendment Act (No. 2) 1986 and amended by section 9 of the Income Tax Amendment Act (No. 4) 1986) is hereby further amended by inserting, after the definition of the term “spouse”, the following definition:

“ ‘Standard value’ has the meaning assigned to that term by section 86 (1) or, as the case may be, section 86G (8) of this Act.”.

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year. 5

11. Determination of assessable income—(1) Section 374B (1) of the principal Act (as so inserted and amended) is hereby further amended by omitting from paragraph (d) (i) the expression “86F”, and substituting the expression “86FA”. 10

(2) Section 374B (1) of the principal Act (as so inserted and amended) is hereby further amended—

(a) By inserting in paragraph (e) (ii), after the expression “86F”, the expression “86FA”;

(b) By omitting from item d of paragraph (g) (ii) the words “the company corresponds”, and substituting the words “the company corresponds; and”. 15

(3) Section 374B (1) (e) of the principal Act (as so inserted and amended) is hereby further amended by adding the following subparagraph: 20

“(iii) Any amount of income that, under section 86F of this Act, is deemed to be, or has been, derived by the person in the income year that commenced on the 1st day of April 1986; and”.

(4) Section 374B (1) of the principal Act (as so inserted and amended) is hereby further amended by adding the following paragraph: 25

“(h) Where in any income year herd livestock is valued under the provisions of section 86A of this Act, there shall be included in, or as the case may be, deducted from the assessable income an amount which would have increased the assessable income, or as the case may be, would have reduced the assessable income, had the herd livestock been valued at standard values.” 30 35

(5) **Subsections (1) and (3)** of this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1986 and in every subsequent year.

(6) **Subsections (2) and (4)** of this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year. 40

12. Provisional taxpayers—(1) Section 377 of the principal Act is hereby amended by omitting from the proviso the expression “\$1,000” (as substituted by section 9 (1) of the Income Tax Amendment Act (No. 2) 1983), and substituting
5 the expression “\$3,000”.

(2) Section 17 (1) (b) of the principal Act is hereby consequentially amended by omitting the expression “\$1,000” (as substituted by section 9 (2) of the Income Tax Amendment Act (No. 2) 1983), and substituting the expression “\$3,000”.

10 (3) The Income Tax Amendment Act (No. 2) 1983 is hereby consequentially amended by repealing section 9.

(4) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1988 and in every subsequent year.

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PART II

GOODS AND SERVICES TAX

13. This Part to be read with Goods and Services Tax Act 1985—(1) This Part of this Act shall be read together with and deemed part of the Goods and Services Tax Act 1985* (in
20 this Part referred to as the principal Act).

(2) This Part of this Act shall be deemed to have come into force on the 23rd day of September 1987, and shall apply to supplies made on or after that date.

*R.S. Vol. 19, p. 369
Amendment: 1987, No. 103

14. Meaning of the term “supply”—(1) Section 5 (13) of
25 the principal Act is hereby amended by repealing the proviso (as inserted by section 5 (5) of the Goods and Services Tax Amendment Act 1986), and substituting the following proviso:

“Provided that this subsection shall not apply in respect of
30 any indemnity payment received pursuant to a contract of insurance where—

“(a) The supply of that contract of insurance is not a supply charged with tax pursuant to section 8 (1) of this Act; or

35 “(b) That payment is to indemnify for any loss of earnings (being earnings within the meaning of the Accident Compensation Act 1982).”

(2) The Goods and Services Tax Amendment Act 1986 is hereby consequentially amended by repealing section 5 (5).

15. Calculation of tax payable—Section 20 (3) (d) of the principal Act is hereby amended by adding to the proviso the following subparagraph:

“(v) Shall not apply where that payment is made to indemnify for any loss of earnings (being earnings within the meaning of the Accident Compensation Act 1982).” 5

PART III

ESTATE AND GIFT DUTIES

16. This Part to be read with Estate and Gift Duties Act 1968—(1) This Part of this Act shall be read together with and deemed part of the Estate and Gift Duties Act 1968* (in this Part referred to as the principal Act). 10

(2) This Part of this Act shall be deemed to have come into force on the 1st day of October 1987. 15

*Reprinted 1976, Vol 5, p. 3585

Amendments: 1977, No. 58; 1978, No. 22; 1979, No. 24; 1980, No. 22; 1982, No. 128; 1983, No. 3; 1986, No. 14; 1986, No. 119

17. Exemption in relation to base price adjustment for income tax purposes—(1) The principal Act is hereby amended by inserting, after section 35B (as inserted by section 5 of the Estate and Gift Duties Amendment Act 1970), the following section: 20

“35BA. Where and to the extent that any liability under a financial arrangement (within the meaning of sections 64B to 64M of the Income Tax Act 1976) is forgiven or otherwise remitted (in whole or in part) under the will of the deceased, and that forgiveness or other remission is required to be taken into account under the said sections 64B to 64M in calculating the assessable income of any person by way of— 25

“(a) Reducing the amount of any deduction that is allowable to the person; or

“(b) Increasing an amount that is income of the person,— 30 the financial arrangement shall to that extent not be included in the dutiable estate of the deceased.”

(2) This section shall apply to the estates of all persons dying on or after the 1st day of October 1987.

18. Exemption in relation to base price adjustment for income tax purposes—(1) The principal Act is hereby amended by inserting, after section 75A (as inserted by section 7 of the Estate and Gift Duties Amendment Act 1983), the following section: 35

“75B. Where and to the extent that any liability under a financial arrangement (within the meaning of sections 64B to 64M of the Income Tax Act 1976) is forgiven or otherwise remitted (in whole or in part), and that forgiveness or other
5 remission is required to be taken into account under the said sections 64B to 64M in calculating the assessable income of any person by way of—

“(a) Reducing the amount of any deduction that is allowable to the person; or

10 “(b) Increasing an amount that is income of that person,— the forgiveness or other remission shall not constitute a gift for the purposes of this Act.”

(2) This section shall apply to any forgiveness or other
15 liability under a financial arrangement.