

House of Representatives

Supplementary Order Paper

Tuesday, 7 December 2010

Taxation (GST and Remedial Matters) Bill

Proposed amendments

Hon Peter Dunne, in Committee, to move the following amendments:

Clause 2

Subclause (6): to replace “**40, 41**” (line 16 on page 6) with “**34D, 34E, 40, 41, 42BAB**”.

Subclause (6): to replace “**69, 70, 71, 74(7B), and (9), 74B, 76**” (lines 17 and 18 on page 6) with “**69(1) and (2), 70, 71, 74(7BA), (7B), and (9), 74B, 76, 79B(1AB), (1B), (1C), and (4)**”.

New subclause (7B): to insert, after *subclause (7)* (after line 20 on page 6), the following:

(7B) **Sections 74(7G) and 79B(1A), (1D), and (3)** are treated as coming into force on 1 April 2009.

Subclause (8): to replaced the subclause (line 21 on page 6) with the following:

(8) **Sections 74(7BAB) and 82** are treated as coming into force on 6 October 2009.

Subclause (9): to insert, after “**37,**” (line 22 on page 6), “**41G, 41J,**” .

Subclause (9): to insert, after “**47B,**” (line 22 on page 6), “**47C,**”.

Subclause (9): to replace “**79B**” (line 24 on page 6) with “**79B(1) and (2)**”.

New subclause (9B): to insert, after *subclause (9)* (after line 25 on page 6), the following:

(9B) **Sections 34B and 34C** are treated as coming into force on 20 May 2010.

Subclause (10): to insert, before “**22**” (line 1 on page 7), “**10(1BA), 10B,**”.

New subclauses (11C) and (11D): to insert, after *subclause (11B)* (after line 5 on page 7), the following:

(11C) **Section 19C** comes into force on 7 September 2010.

(11D) **Sections 19B, 28B, 30C, 36B(1) and (3), 64C, 67B to 67F, 73B, and 83B** come into force on 1 October 2010.

New *subclause (12B)*: to insert, after *subclause (12)* (after line 6 on page 7), the following:

(12B) **Section 74G** comes into force on 1 November 2010.

Subclause (13): to replace “**10**” (line 7 on page 7) with “**10(1), (1B), and (2)**”.

Subclause (13): to replace “**25, 29(2) and (3), 35, 74(2B), and 75(1)(b), (c), and (d)**” (lines 8 and 9 on page 7) with “**21B, 23B, 25, 28C, 29(2) and (3), 30BA, 30BAB, 32B, 32C, 34F, 35, 36B(2), (4), and (5), 38B, 38C, 38D, 41B, 41C, 41D, 41E, 41F, 41H, 41I, 41K, 41L, 41M, 41N, 42BA, 51B(1), 57BA, 62B, 62C, 69(1B) and (3), 74(1B), (2BA), (2BAB), (2BAC), (2BAD), (2BAE), (2B), (3B), (3C), (4BA), (4BAB), (4BAC), (5B), (6BA), (6C), (6D), (6E), (6F), (6G), (6H), (7BB), (7BC), (7D), (7E), (7F), (7H), (7I), (7J), (8B), (8C), (9B), (10A), and (10BA), 74C, 74D, 74E, 74F, 75(1)(b), (c), and (d), 75B, 78B, 80B, 80C, 82B, 82C, 82D, 82E, 83C, 86B, and 94B**”.

New *subclause (13B)*: to add, after *subclause (13)* (after line 9 on page 7), the following:

(13B) **Section 51B(2)** comes into force on 1 April 2013.

Clause 10

New *subclause (1BA)*: to insert, after *subclause (1)* (after line 32 on page 12), the following:

(1BA) Section 11(1)(o) is replaced by the following:

- “(o) the goods are supplied to or by the Crown as consideration for a supply—
 - “(i) for which there is no payment of a price; and
 - “(ii) that is chargeable at the rate of 0% under section 11A(1)(s) or (t).”

New clause 10B

To insert, after *clause 10* (after line 10 on page 13), the following:

10B Zero-rating of services

Section 11A(1)(u) is replaced by the following:

- “(u) the services are supplied to or by the Crown as consideration for a supply—
 - “(i) for which there is no payment of a price; and
 - “(ii) that is chargeable at the rate of 0% under paragraph (s) or (t); or”.

New clauses 19B and 19C

To insert, after *clause 19* (after line 3 on page 28), the following:

19B Effect of imposition or alteration of tax

In section 78(3), in the second proviso, “required to be paid by any public authority to any other person by virtue of that Act or regulation” is replaced by “required by virtue of that Act

or regulation to be paid by any public authority to any person other than a public authority”.

19C Exceptions to effect of increase of tax

- (1) In section 78AA(5), “take place after” is replaced by “take place on or after”.
- (2) In section 78AA(12), “sections 25(3) and (3C) and 143A(1)(f)” is replaced by “section 25(3) and (3C), and section 143A(1)(f) of the Tax Administration Act 1994”.

Clause 21

To replace “22” (line 16 on page 29) with “21B”.

New clause 21B

To insert, after *clause 21* (after line 16 on page 29), the following:

21B New heading and sections CB 32B and CB 32C inserted

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

“Look-through companies

“CB 32B Owners of look-through companies

A person who has an effective look-through interest for a look-through company has an amount of income to the extent to which an amount of income results from the application of **subpart HB** (Look-through companies) to them and the look-through company.

“Defined in this Act: amount, effective look-through interest, income, look-through company

“CB 32C Income for first year of look-through company

“Income

- “(1) A person has an amount of income for an income year equal to the amount given by the formula in **subsection (3)** if the income year is one in which the person has,—
 - “(a) on the first day of that year, an effective look-through interest for a look-through company (**LTC**), and the company existed in the previous income year, but was not a look-through company in that previous year:
 - “(b) on the day after a look-through company amalgamates in that year with a company that ceases to exist after the amalgamation (the **amalgamating company**), an effective look-through interest for the LTC, and the amalgamating company was not a look-through company immediately before the amalgamation.

“Exclusion

- “(2) A person does not have income under this section if the income year is 1 of the first or second income year that starts on or after 1 April 2011, and—
- “(a) the LTC was a qualifying company that first becomes a look-through company for the income year; and
- “(b) **subsection (1)(b)** does not apply for the income year.

“Income formula

- “(3) For the purposes of **subsection (1)**, the amount of income is a positive amount calculated using the following formula:

$$\text{untaxed reserves} \times \text{effective interest.}$$

“Definition of items in formula

- “(4) In the formula in **subsection (3)**,—
- “(a) **untaxed reserves** is the amount given by the formula in **subsection (5)**:
- “(b) **effective interest** is the person’s effective look-through interest for a look-through company on the relevant day under **subsection (1)(a) or (b)**.

“Untaxed reserves formula

- “(5) For the purposes of **subsections (3) and (4)**, the amount of untaxed reserves is calculated using the following formula:

$$\text{dividends} + \text{balances} - \text{assessable income} - \frac{\text{balances}}{\text{tax rate}} - \text{exit exemption.}$$

“Definition of items in formula

- “(6) The items in the formula in **subsection (5)** are defined in **subsections (7) to (11)**.

“Dividends

- “(7) **Dividends** is the sum of the amounts that would be dividends if the following events occurred for the company or the amalgamating company (the **company**), immediately before it became a look-through company or amalgamated with a look-through company,—
- “(a) it disposed of all of its property, other than cash, to an unrelated person at market value for cash; and
- “(b) it met all of its liabilities at market value, excluding income tax payable through disposing of the property or meeting the liabilities; and
- “(c) it was liquidated, with the amount of cash remaining being distributed to shareholders without imputation credits or FDP credits attached.

“Balances

- “(8) **Balances** is the sum of the following amounts:

- “(a) the balance of the company’s imputation credit account:
- “(b) the balance in the company’s FDP account:
- “(c) an amount of income tax payable for an earlier income year but not paid before the relevant date, less refunds due for the earlier income year but paid after the relevant date.

“*Assessable income*

- “(9) **Assessable income** is the total assessable income that the company would derive by taking the actions described in **subsection (7)(a) and (b)** less the amount of any deduction that the company would have for taking those actions.

“*Tax rate*

- “(10) **Tax rate** is the basic tax rate for the income year of the company that contains the relevant day described in **subsection (12)**.

“*Exit exemption*

- “(11) **Exit exemption** is the amount given by the formula in **section CX 63(2)** (Dividends derived after ceasing to be look-through company), treating the amount described in **subsection (7)** as a dividend paid by the company for the purposes of **section CX 63(1)**, if **section CX 63** would apply to a dividend paid by the company.

“*Relevant day*

- “(12) In **subsections (7) to (9) and (11)**, the relevant day for measuring items in the formula is—
- “(a) the last day of the income year before the income year described in **subsection (1)(a)**, as applicable; or
 - “(b) the day of the amalgamation described in **subsection (1)(b)** as applicable.

“*Income tax and refund*

- “(13) For the purposes of **subsection (8)(c)**,—
- “(a) income tax payable is income tax that would, when paid, give rise to a credit in the company’s imputation credit account under sections OB 4 to OB 29 (which relate to imputation credits):
 - “(b) a refund of income tax due is the amount that would, when paid, give rise to a debit to the company’s imputation credit account under sections OB 30 to OB 59 (which relate to imputation debits).

“Defined in this Act: amalgamating company, amalgamation, amount, assessable income, basic tax rate, company, deduction, dispose, dividend, effective look-through interest, FDP account, FDP credit, imputation credit, imputation credit account, income, income tax, income year, liquidation, look-through company, qualifying company”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

New clause 23B

To insert, after *clause 23* (after line 32 on page 29), the following:

23B Available subscribed capital (ASC) amount

- (1) In section CD 43(1), in the formula, “returns” is replaced by “returns – look-through company returns”.
- (2) In section CD 43(2)(b), “the share” is replaced by “the share, ignoring **section HB 1** (Look-through companies are transparent)”.
- (3) In section CD 43(2)(c), “Act.” is replaced by “Act:” and the following is added:
 - “(d) **look-through company returns** is the total amount of consideration that the company paid, before the calculation time, on the cancellation or buyback of shares in the relevant class while the company was a look-through company, ignoring **section HB 1**.”
- (4) In section CD 43, in the list of defined terms, “look-through company” is inserted.
- (5) **Subsections (1), (2), and (3)** apply for income years beginning on or after 1 April 2011.

New clauses 28B and 28C

To insert, after *clause 28* (after line 8 on page 31), the following:

28B Government grants to businesses

- (1) Section CX 47(1)(a) to (d) are replaced by the following:
 - “(a) a local authority or a public authority makes a payment to a person for a business that the person carries on; and
 - “(b) the payment—
 - “(i) is in the nature of a grant or subsidy to the person; or
 - “(ii) is a grant-related suspensory loan to the person; and
 - “(c) the payment is not in the nature of an advance or loan other than a grant-related suspensory loan; and
 - “(d) the payment corresponds to—
 - “(i) expenditure that they incur and for which they would be allowed a deduction in the absence of section DF 1 (Government grants to businesses):
 - “(ii) expenditure that they incur in acquiring, constructing, installing, or extending an asset for which they would have an amount of depreciation loss in the absence of section DF 1.”
- (2) After section CX 47(3), the following is added:

“*Further exclusion*

 - “(4) A person may choose that this section not apply to a payment under a grant to the extent to which—

- “(a) the grant is made to the person for the person’s business as a technology development grant or under a technology transfer voucher; and
- “(b) the payment is withheld until the conditions of the grant are satisfied; and
- “(c) in the absence of section DF 1, the person would be allowed for an income year before the income year of the payment,—
 - “(i) a deduction for expenditure to which the payment corresponds:
 - “(ii) depreciation loss resulting from expenditure to which the payment corresponds.”

28C New heading and section CX 63 added

- (1) After section CX 62, the following is inserted:

“Look-through companies

“CX 63 Dividends derived after company ceased to be look-through company

“Dividends

- “(1) A dividend derived by a person from a company after it has ceased to be a look-through company is excluded income of the person to the extent to which it is equal to or less than the amount given by **subsection (2)**.

“Excluded income formula

- “(2) For the purposes of **subsection (1)**, the amount is calculated using the following formula:

exit dividends – dividends after look-through.

“Definition of items in formula

- “(3) The items in the formula are defined in **subsections (4) and (5)**.

“Exit dividends

- “(4) **Exit dividends** is the sum of the amounts that would be dividends if the company, immediately after it ceased to be a look-through company,—
 - “(a) disposed of all of its property, other than cash, to an unrelated person at market value for cash; and
 - “(b) met all its liabilities at market value, excluding income tax payable through disposing of the property or meeting the liabilities; and
 - “(c) were liquidated, with the amount of cash remaining being distributed to its shareholders without imputation credits or FDP credits attached.

“Dividends after look-through

- “(5) **Dividends after look-through** is the total dividends paid by the company after it ceases to be a look-through company and before it pays the dividend described in **subsection (1)** to the person.

“Defined in this Act: amount, company, dispose, dividend, excluded income, FDP credit, imputation credit, income tax, liquidation, look-through company, shareholder”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

New clauses 30BA and 30BAB

To insert, after *clause 30* (after line 17 on page 32), the following:

30BA New section DB 65 added

- (1) After section DB 64, the following is added:

“DB 65 Allowance for certain commercial buildings

“When this section applies

- “(1) This section applies when—

“(a) a person owns an item that is a commercial building (the **building**), and the building is depreciable property with an annual rate of 0%, in an income year; and

“(b) the item starting pool described in **subsection (3)(a)** is greater than the total of all deductions allowed under this section for income years before the income year; and

“(c) the person has been allowed a deduction for an amount of depreciation loss for the building for the 2010–11 income year and the person has not disposed of it since then; and

“(d) the person has never had a deduction for an amount of depreciation loss for a separate item of depreciable property that is commercial fit-out and that was acquired at the same time as the building and relates to the building; and

“(e) the building was acquired in the 2010–11 or earlier income years; and

“(f) the person is not allowed a deduction under any other provision in relation to the building, for the income year.

“Deduction

- “(2) Except as provided by **subsection (6)**, the person is treated as having a loss for the income year equal to the amount calculated using the formula—

$$\text{starting pool} \times 0.02 \times \frac{\text{whole months}}{12}.$$

“Definition of items in formula

- “(3) In the formula in **subsection (2)**,—
- “(a) **starting pool** is the amount given by the formula in **subsection (4)**:
- “(b) **whole months** is the number of whole months in the income year in which the item is used, or is available for use, by the person in deriving assessable income or carrying on a business for the purpose of deriving assessable income.

“Starting pool: formula

- “(4) For the purposes of **subsection (3)(a)**, the amount is calculated using the formula—

$$(0.15 \times \text{building atv}) - \text{fitout atv}.$$

“Definition of items in formula

- “(5) In the formula in **subsection (4)**,—
- “(a) **building atv** is the adjusted tax value of the building that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE (Depreciation):
- “(b) **fitout atv** is the total adjusted tax value of all items of commercial fit-out that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE, if—
- “(i) the items of commercial fit-out relate to the building and were acquired after the building was acquired; and
- “(ii) the person has had a deduction for an amount of depreciation loss for the items of commercial fit-out.

“Exception: deductible amount

- “(6) Despite **subsection (2)**, if the item starting pool described in **subsection (3)(a)**, reduced by the total of all deductions allowed under this section for income years before the income year, is equal to an amount (the **deductible amount**) that is smaller than the amount given by the formula in **subsection (2)** (the **formula amount**), then the person is treated as having a loss for the income year equal to the deductible amount instead of the formula amount.

“Treatment of amounts under specific and general rules for deductions

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

“Defined in this Act: adjusted tax value, amount, assessable income, building, capital limitation, commercial building, commercial fit-out, deduction, depreciable property, depreciation loss, dispose, estimated useful life, income year”.

- (2) **Subsection (1)** applies for the 2011–12 and later income years.

30BAB New section DC 3B inserted

- (1) After section DC 3, the following is inserted:

“DC 3B Payments to working owners

“Deduction

- “(1) A person who has an effective look-through interest for a look-through company (an **owner**) is allowed a deduction for their share of a payment made under a contract of employment to a working owner.

“Amount of deduction

- “(2) The amount of the deduction is limited to the amount of the payment authorised by the contract of employment and any bonus, whether or not the payment of a bonus is authorised by the contract.

“Meaning of contract of employment

- “(3) In this section, **contract of employment**, for a working owner, means an agreement that—

- “(a) specifies the terms and conditions of the services to be performed by the working owner; and
“(b) specifies the amount payable to the working owner for the performance of the services; and
“(c) is in writing.

“Link with subpart DA

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

“Defined in this Act: amount, contract of employment, deduction, effective look-through interest, general limitation, general permission, look-through company, pay, supplement, working owner”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

New clause 30C

To insert, after clause 30B (after line 22 on page 32), the following:

30C Government grants to businesses

- (1) Section DF 1(1) is replaced by the following:

“When this section applies

- “(1) This section applies when—
- “(a) a local authority or a public authority makes a payment to a person for a business that the person carries on; and
 - “(b) the payment—
 - “(i) is in the nature of a grant or subsidy to the person; or
 - “(ii) is a grant-related suspensory loan to the person; and
 - “(c) the payment is not in the nature of an advance or loan other than a grant-related suspensory loan; and
 - “(d) the person does not make an election that **section CX 47(4)** (Government grants to businesses) apply to the payment.

“When subsection (2) applies

- “(1B) Subsection (2) applies when, in the absence of this section, the person would be allowed a deduction for expenditure by the person to which the payment by the local or public authority corresponds.”
- (2) Section DF 1(3), other than the heading, is replaced by the following:
- “(3) Subsection (4) applies when—
- “(a) expenditure by the person in the acquisition, construction, installation, or extension of an item of depreciable property is expenditure to which the payment by the local or public authority corresponds; and
 - “(b) in the absence of this section, the person would be allowed a deduction for an amount of depreciation loss for the item of depreciable property.”

New clauses 32B and 32C

To insert, after *clause 32* (after line 28 on page 32), the following:

32B New sections DV 21 to DV 24 added

- (1) After section DV 20, the following is added:

“DV 21 Losses for QCs entering partnership regime

“When this section applies

- “(1) This section applies to a person when,—
- “(a) for an income year, a person’s partnership (the **partnership**) has effectively replaced a qualifying company or companies under a QCP transitional process; and
 - “(b) ignoring the application of **section HZ 4B(3)** (Qualifying companies: transition into partnership), the company or companies would have had loss balances to carry forward to the first or second income year, as ap-

plicable, starting on or after 1 April 2011 (the **relevant transitional income year**).

“Losses extinguished

- “(2) Despite **section HZ 4B(3)**, for the relevant transitional income year and subsequent income years, a loss balance under Part I (Treatment of tax losses) is cancelled if the loss balance arose in relation to an income year before the relevant transitional income year.

“Deduction

- “(3) The person is allowed a deduction for an amount equal to an amount given by the formula in **subsection (4)**, to the extent to which it is equal to or less than the net income the person would have for the income year if they were treated as having only income and deductions arising from the application of subpart HG (Joint venturers, partners, and partnerships) for the partnership.

“Deduction formula

- “(4) For the purposes of **subsection (3)**, the amount is calculated using the formula—

(loss balance extinguished – subsequent deductions) × partnership share.

“Definition of items in formula

- “(5) In the formula,—
- “(a) **loss balance extinguished** is the loss balance cancelled under **subsection (2)**;
- “(b) **subsequent deductions** is the total amount of deductions allowed for previous income years under this section for all persons with a partnership share in the partnership;
- “(c) **partnership share** is the person’s average partnership share for the partnership for the income year.

“Exception

- “(6) Despite **subsection (3)**, a person is not allowed a deduction for an amount in **subsection (4)** to the extent to which—
- “(a) it arises from an amount carried forward under subparts IA and IQ (which relate to the treatment of foreign losses); and
- “(b) it is greater than the maximum amount they may subtract from their net income under subpart IQ, treating the amount as an attributed CFC net loss or a FIF net loss carried forward under subpart IQ, and the person as having the net income they would have for the income year if they were treated as having only income and deductions arising from the application of subpart HG for the partnership.

“Link with subpart DA

“(7) This section overrides the general permission and the general limitations.

“Defined in this Act: amount, attributed CFC net loss, company, deduction, FIF net loss, general limitation, general permission, income, income year, loss balance, net income, partnership, partnership share, QCP transitional process, qualifying company

“Look-through companies

“DV 22 Owners of look-through companies

A person who has an effective look-through interest for a look-through company has a deduction to the extent to which a deduction results from the application of **subpart HB** (Look-through companies) to them and the look-through company.

“Defined in this Act: deduction, effective look-through interest, look-through company

“DV 23 Losses for QCs entering look-through companies rules

“When this section applies

“(1) This section applies to a person who has an effective look-through interest for a look-through company (the **LTC**) for an income year when—

“(a) the LTC was a qualifying company that first becomes a look-through company for the first or second income year that starts on or after 1 April 2011; and

“(b) but for becoming a look-through company and the application of **section HB 3** (Loss balances extinguished), there would have been a loss balance to carry forward to the first or second income year that starts on or after 1 April 2011 (the **relevant transitional income year**).

“Deduction

“(2) The person is allowed a deduction for an amount equal to an amount given by the formula in **subsection (3)**, to the extent to which it is equal to or less than the net income the person would have for the income year if they were treated as having only income and deductions arising from the application of **subpart HB** (Look-through companies) for the LTC.

“Deduction formula

“(3) For the purposes of **subsection (2)**, the amount is calculated using the formula—

$(\text{loss balance extinguished} - \text{subsequent deductions}) \times \text{effective interest.}$

“Definition of items in formula

“(4) In the formula,—

- “(a) **loss balance extinguished** is the loss balance that would have been carried forward to the relevant transitional income year:
- “(b) **subsequent deductions** is the total amount of deductions allowed for previous income years under this section for all persons with an effective look-through interest for the LTC:
- “(c) **effective interest** is the person’s average effective look-through interest for the income year for the LTC.

“Exception

- “(5) Despite **subsection (2)**, a person is denied a deduction for an amount in **subsection (3)** to the extent to which—
 - “(a) it arises from an amount carried forward under subparts IA and IQ (which relate to the treatment of foreign losses); and
 - “(b) it is greater than the maximum amount they may subtract from their net income under subpart IQ, treating the amount as an attributed CFC net loss or a FIF net loss carried forward under subpart IQ, and the person as having the net income they would have for the income year if they were treated as having only income and deductions arising from the application of **subpart HB** for the LTC.

“Link with subpart DA

- “(6) This section overrides the general permission and the general limitations.

“Defined in this Act: amount, attributed CFC net loss, deduction, effective look-through interest, FIF net loss, general limitation, general permission, income, income year, look-through company, loss balance, net income, qualifying company

“Sole traders

“DV 24 Losses for QCs becoming sole traderships

“When this section applies

- “(1) This section applies to a person when,—
 - “(a) for an income year, the person’s sole tradership has effectively replaced a qualifying company under a QCST transitional process; and
 - “(b) ignoring the application of **section HZ 4D(3)** (Qualifying companies: transition into sole traderships), the company would have had a loss balance to carry forward to the first or second income year, as applicable, starting on or after 1 April 2011 (the **relevant transitional income year**).

“Losses extinguished

- “(2) Despite **section HZ 4D(3)**, for the relevant transitional income year and subsequent income years, a loss balance under Part I (Treatment of tax losses) is cancelled if the loss balance arose in relation to an income year before the relevant transitional income year.

“Deduction

- “(3) The person is allowed a deduction for an amount equal to an amount given by the formula in **subsection (4)**.

“Deduction formula

- “(4) For the purposes of **subsection (3)**, the amount is calculated using the following formula:

loss balance extinguished – subsequent deductions.

“Definition of items in formula

- “(5) In the formula,—

“(a) **loss balance extinguished** is the loss balance cancelled under **subsection (2)**:

“(b) **subsequent deductions** is the total amount of deductions allowed for previous income years under this section.

“Exception

- “(6) Despite **subsection (3)**, a person is denied a deduction for an amount in **subsection (4)** to the extent to which—

“(a) it arises from an amount carried forward under subparts IA and IQ (which relate to the treatment of foreign losses); and

“(b) it is greater than the maximum amount they may subtract from their net income under subpart IQ, treating the amount as an attributed CFC net loss or a FIF net loss carried forward under subpart IQ.

“Link with subpart DA

- “(7) This section overrides the general permission and the general limitations.

“Defined in this Act: amount, attributed CFC net loss, deduction, FIF net loss, general limitation, general permission, income, income year, loss balance, net income, QCST transitional process, qualifying company”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

32C Interests in livestock

- (1) After section EC 12(4), the following is added:

“Look-through company owners’ interests

- “(5) For the purposes of an election under this section, a person’s interest for a look-through company that owns livestock is

treated separately from any other interest that the person has in livestock. Separate elections are required for the person's owner's interest and for their other livestock interests. The person is not required to choose the same valuation method in both cases."

- (2) In section EC 12, in the list of defined terms, "look-through company" and "owner's interests" are inserted.
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

New clauses 34B to 34F

To insert, after *clause 34* (after line 5 on page 37), the following:

34B Annual rate for item acquired in person's 1995–96 or later income year

- (1) In section EE 31(1), the second sentence is replaced by "**Subsection (2)** applies to specify the annual rate for the item if the requirements in **subsection (2A)** are met, and **subsection (3)** applies to specify the annual rate for the item if **subsections (2A) and (2)** do not apply and the requirements in **subsection (3A)** are met."
- (2) After section EE 31(1), the following is inserted:
"Requirements for subsection (2) rate
 "(2A) This subsection applies, and the rate is 1 of the rates given by **subsection (2)**, if the person—
 "(a) acquires the item on or before 20 May 2010; or
 "(b) decides to purchase or construct the item, meets the administrative requirements in **subsection (4)**, and—
 "(i) enters into a binding contract for the purchase or construction of the item on or before 20 May 2010;
 "(ii) after deciding to purchase or construct the item, incurs expenditure in relation to its purchase or construction on or before 20 May 2010."
- (3) In section EE 31(2), the words before the paragraphs are replaced by "If **subsection (2A)** applies, the rate is 1 of the following:".
- (4) After section EE 31(2), the following is inserted:
"Requirements for subsection (3) rate
 "(3A) This subsection applies, and the rate is 1 of the rates given by **subsection (3)**, if **subsections (2A) and (2)** do not apply and the person—
 "(a) acquires the item after 20 May 2010; or
 "(b) decides to purchase or construct the item, and—
 "(i) enters into a binding contract for the purchase or construction of the item after 20 May 2010:"

- “(ii) incurs expenditure in relation to the item’s purchase or construction after 20 May 2010.”
- (5) In section EE 31(3), the words before the paragraphs are replaced by “If **subsection (3A)** applies, the rate is 1 of the following:”.
- (6) After section EE 31(3), the following is added:
“Administrative requirements
- “(4) For the purposes of **subsection (2A)(b)**, a person must—
- “(a) have available for the Commissioner documents dated on or before 20 May 2010 that evidence that the person had, on or before 20 May 2010, decided to purchase or construct the relevant item:
- “(b) send to the Commissioner a statutory declaration that the person had, on or before 20 May 2010, decided to purchase or construct the relevant item.”
- (7) In section EE 31, in the list of defined terms, “Commissioner” is inserted.

34C Improvements

Section EE 37(3)(ab)(i) is replaced by the following:

- “(i) treating the improvement as an item, **section EE 31(2A)** does not apply, but **section EE 31(3A)** does apply; and”.

34D Application of sections EE 48 to EE 52

In section EE 44(1), in the words before the paragraphs, “person derives consideration” is replaced by “person has consideration”.

34E Consideration for purposes of section EE 44

- (1) Section EE 45(1) and (2) are replaced by the following:
“General rule
- “(1) For the purposes of section EE 44, the **consideration** equals the amount that a person derives excluding any GST charged if the person is a registered person, as modified by **subsections (3) to (11)** minus the amount (the **disposal cost**) that they incur in deriving that amount, to the extent to which the disposal cost—
- “(a) is not allowed as a deduction to the person other than as a deduction for an amount of depreciation loss; and
- “(b) is not counted in ‘the amount that a person derives’.
- “GST for disposal costs*
- “(1B) All amounts deducted or deductible by the person under section 20(3) of the Goods and Services Tax Act 1985 in relation

to the disposal cost described in **subsection (1)** are subtracted from the disposal costs under that subsection.

“Consideration may be zero or negative

- “(2) For the purposes of section EE 44, the **consideration** may be zero or a negative amount.”
- (2) In section EE 45(3), in the words before the paragraphs, “derives a consideration that is not the item’s market value, the consideration for the purposes of section EE 44” is replaced by “has consideration that is not the item’s market value, the amount that the person derives”.
- (3) In section EE 45(6), “consideration that a person derives” is replaced by “amount that a person derives”.
- (4) In section EE 45(7), “consideration that a person derives” is replaced by “amount that a person derives”.
- (5) In section EE 45(8), “consideration that a person derives” is replaced by “amount that a person derives”.
- (6) In section EE 45(9),—
- (a) in the words before the paragraphs, “consideration that a person derives” is replaced by “amount that a person derives”:
- (b) in paragraph (a), “consideration that the person derives” is replaced by “amount that a person derives”.
- (7) In section EE 45(10), in the words before the paragraphs, “consideration that a person derives” is replaced by “amount that a person derives”.
- (8) In section EE 45(11), “consideration that a person derives” is replaced by “amount that a person derives”.

34F Events for purposes of section EE 44

- (1) In section EE 47(2), in the second sentence, “income year.” is replaced by “income year, and includes a change in use of an item for the purposes of the definition of **commercial fit-out** and a change in the status of a building related to an item for the purposes of that definition.”
- (2) **Subsection (1)** applies for the 2011–12 and later income years.

New clause 36B

To insert, after *clause 36* (after line 36 on page 37), the following:

36B What is an excepted financial arrangement?

- (1) After section EW 5(3C), the following is inserted:
- “Research and development agreement*
- “(3D) An agreement between a person and another person (the **provider**) that the provider will provide property or services

to the person in consideration for a payment to the provider by a public authority under a technology development grant, or technology transfer voucher, for the benefit of the person is an excepted financial arrangement for the person.”

- (2) After section EW 5(11), the following is inserted:
“Look-through companies
“(11B) A look-through interest for a look-through company is an excepted financial arrangement.”
- (3) In section EW 5, in the list of defined terms, “public authority” is inserted.
- (4) In section EW 5, in the list of defined terms, “look-through interest” and “look-through company” are inserted.
- (5) **Subsection (2)** applies for income years beginning on or after 1 April 2011.

New clauses 38B to 38D

To insert, after *clause 38* (after line 9 on page 40), the following:

38B What this subpart does

- (1) After section FB 1(3), the following is added:
“Look-through interests
“(4) For the purposes of this subpart, **property** includes a look-through interest for a look-through company.”
- (2) In section FB 1, in the list of defined terms, “look-through interest” and “look-through company” are inserted.
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

38C New section FB 10B

- (1) After section FB 10, the following is inserted:
“FB 10B Look-through companies
“When this section applies
“(1) This section applies for the purposes of **sections HB 4 to HB 10** (which relate to transfers of interests) when a look-through interest for a look-through company is transferred on a settlement of relationship property.
“Transferee treated as holding interest
“(2) The transferee is treated as having acquired the look-through interest on the date it was acquired by the transferor, and to have held it at all times up to the date of transfer.
“Defined in this Act: date of transfer, look-through interest, look-through company, settlement of relationship property”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

38D What this subpart does

- (1) In section FC 1(2), the following is inserted in its appropriate alphabetical order:
“**property** includes a look-through interest for a look-through company”.
- (2) In section FC 1, in the list of defined terms, “look-through interest” and “look-through company” are inserted.
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

New clauses 41B to 41N

To insert, after *clause 41* (after line 5 on page 42), the following:

41B Excessive remuneration to relatives

- (1) In section GB 23(2)(a), “in partnership” is replaced by “in partnership or has an effective look-through interest for a look-through company”.
- (2) In section GB 23(2)(b), “the partnership” is replaced by “the partnership or look-through company”.
- (3) In section GB 23, in the list of defined terms, “effective look-through interest” and “look-through company” are inserted.
- (4) **Subsections (1) and (2)** apply for income years beginning on or after 1 April 2011.

41C New section GB 25B inserted

- (1) After section GB 25, the following is inserted:

“GB 25B Excessive effective look-through interests

“When this section applies

- “(1) This section applies to the extent to which, for an income year,—
 - “(a) a person (an **owner**) has an effective look-through interest for a look-through company (the **LTC**); and
 - “(b) for the LTC, 2 or more owners are relatives, 1 of whom is under 20 years old (the **relevant relative**); and
 - “(c) the Commissioner considers that the income arising from the application of **section HB 1** (Look-through companies are transparent) for the relevant relative is excessive.

“Reallocation of effective look-through interests

- “(2) Despite **section HB 1**, the effective look-through interests for the person are the interests that the Commissioner considers reasonable for the income year or part of the income year, as applicable, without taking into account an amount provided to the relevant relative.

“Matters for Commissioner’s consideration

- “(3) The Commissioner may take into account each of the following matters when applying this section:
- “(a) the nature and extent of services rendered by the relevant relative:
 - “(b) the value of the contributions made by the respective owners, by way of services, capital, or otherwise:
 - “(c) any other relevant matters.
- “Defined in this Act: effective look-through interest, income year, look-through company, relative”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41D Attribution rule: calculation

- (1) In section GB 29(2)(b), “apply.” is replaced by “apply:”, and the following is added:
- “(c) if the associated entity is a look-through company, the associated entity is treated as a taxpayer and **section HB 1** (Look-through companies are transparent) does not apply.”
- (2) In section GB 29, in the list of defined terms, “look-through company” is inserted.
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41E What this subpart does

- (1) Section HA 1(1)(b) is repealed.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41F Section HA 3 repealed

- (1) Section HA 3 is repealed.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41G Elections to become qualifying company

- (1) In section HA 5(1), “choose that the company is to become a qualifying company” is replaced by “choose, before the start of the grandparenting income year, that the company is to become a qualifying company”.
- (2) After section HA 5(1), the following is inserted:
- “Extension of time in some cases*
- “(1B) An election is treated as made before the start of the grandparenting income year for the purposes of **subsection (1)**, if the relevant persons choose before the end of the time allowed by

section 37 of the Tax Administration Act 1994 for providing a return for the company's first income year, and—

- “(a) that income year is—
 - “(i) the grandparenting income year; and
 - “(ii) nominated under **section HA 30(3)**; and
- “(b) the company has not previously been required to provide a return of income.”

(3) After section HA 5(4), the following is added:

“Meaning of grandparenting income year

“(5) In this section, **grandparenting income year** means the income year before the first income year that starts on or after 1 April 2011.”

(4) In section HA 5, in the list of defined terms, “grandparenting income year” is inserted.

(5) **Subsections (1), (2), and (3)** apply for income years beginning on or after 1 April 2010.

41H New section HA 7B inserted

(1) After section HA 7, the following is inserted

“HA 7B Grandparenting requirement

A qualifying company must have been a qualifying company at the end of the income year before the first income year that starts on or after 1 April 2011.

“Defined in this Act: income year, qualifying company”.

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41I Sections HA 10, HA 11(4), and HA 20, heading, and sections HA 24 to HA 27 repealed

(1) Sections HA 10, HA 11(4), and HA 20, the heading before section HA 24, and sections HA 24 to HA 27 are repealed.

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41J When elections take effect

(1) In section HA 30(3), “take effect” is replaced by “take effect, subject to **section HA 5(1B)**”.

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2010.

41K New section HA 33B inserted

(1) After section HA 33, the following is inserted:

“HA 33B Transitional rules for look-through companies, partnerships, and sole traderships

“LTC election

- “(1) All elections by shareholders under section HA 5 are revoked if, for the company and the relevant shareholders, a LTC election has been received by the Commissioner under **section HB 13(3)(c) and (4)** (LTC elections) for the first or second income year that starts on or after 1 April 2011.

“When revocation takes effect

- “(2) The revocation of the elections under **subsection (1)** takes effect at the beginning of the relevant income year.

“Notice of intention

- “(3) All elections by shareholders under section HA 5 are revoked if, for the company and the relevant shareholders, a notice of intention has been received by the Commissioner for the first or second income year that starts on or after 1 April 2011 under **section HZ 4B(7)(a) or HZ 4D(4)(a)** (which relate to transitions to partnerships and sole traderships).

“When revocation takes effect

- “(4) The revocation of the elections under **subsection (3)** takes effect at the beginning of the relevant income year.

“Defined in this Act: Commissioner, company, income year, shareholder”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41L Heading and sections HA 38 and HA 39 repealed

- (1) The heading before section HA 38 and sections HA 38 and HA 39 are repealed.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

41M New subpart HB inserted

- (1) After subpart HA, the following is inserted:

“Subpart HB—Look-through companies

“HB 1 Look-through companies are transparent

“When this section applies

- “(1) This section applies for the purposes of this Act, other than the PAYE rules, the FBT rules, the NRWT rules, the RWT rules, the ESCT rules, and the RSCT rules, for a person in their capacity of owner of an effective look-through interest for a look-through company (the **LTC**), for an income year, if—

- “(a) for the LTC, an LTC election described in **section HB 13(1) and (2)** has been received by the Commissioner under **section HB 13(3) and (4)** for the income year; and
- “(b) the LTC meets the requirements in the definition of **look-through company** at all times in the income year; and
- “(c) the election has not been revoked for the income year by an owner of a look-through interest for the LTC by notice received by the Commissioner before the start of the income year.

“When this section applies: Commissioner’s discretion as to revocation

- “(2) A revocation notice that is received by the Commissioner after the start of the income year is treated as received before the start of the income year if the Commissioner decides that exceptional circumstances are the sole cause of the lateness.

“When this section applies: revocation ignored

- “(3) An owner’s revocation notice for the income year is ignored for the purposes of this section and **section HB 13(4)(a)** if the owner stops having a look-through interest in the LTC and the new owner reverses the revocation notice before the start of the income year by notice to the Commissioner.

“Look-through for effective look-through interest

- “(4) For a person, unless the context requires otherwise,—
 - “(a) the person is treated as carrying on an activity carried on by the LTC, and having a status, intention, and purpose of the LTC, and the LTC is treated as not carrying on the activity or having the status, intention, or purpose:
 - “(b) the person is treated as holding property that the LTC holds, in proportion to the person’s effective look-through interest, and the LTC is treated as not holding the property:
 - “(c) the person is treated as being party to an arrangement to which the LTC is a party, in proportion to the person’s effective look-through interest, and the LTC is treated as not being a party to the arrangement:
 - “(d) the person is treated as doing a thing and being entitled to a thing that the LTC does or is entitled to, in proportion to the person’s effective look-through interest, and the LTC is treated as not doing the thing or being entitled to the thing.

“Effective look-through interest

- “(5) For the purposes of this section, **effective look-through interest** means for a person and an LTC, treating the LTC as a company for the purposes of this subsection,—
- “(a) a person’s average daily look-through interest for the company for the income year, if there is no market value circumstance for the LTC and **paragraph (b)** does not apply:
 - “(b) a person’s look-through interest for the relevant time of look-through under **subsection (4)**, if there is no market value circumstance for the LTC, and—
 - “(i) the assessable income of the LTC, ignoring this subpart, is or will be \$3,000,000 or more in a 12-month period including the relevant time of look-through, and the Commissioner has notified the LTC that look-through interests for the relevant time of look-through under **subsection (4)** must be used under this section:
 - “(ii) all persons with look-through interests have agreed to use their look-through interests for the relevant time of look-through:
 - “(c) if there is a market value circumstance for the LTC and **paragraph (d)** does not apply, the average of the following 2 amounts:
 - “(i) a person’s average daily look-through interest for the income year:
 - “(ii) a person’s average daily market value interest for the income year:
 - “(d) if there is a market value circumstance for the LTC, and the assessable income and notification requirements described in **paragraph (b)(i)** are met, the average of the following 2 amounts:
 - “(i) a person’s look-through interest for the time of look-through under **subsection (4)**:
 - “(ii) a person’s market value interest for the time of look-through under **subsection (4)**.

“Defined in this Act: arrangement, assessable income, Commissioner, company, effective look-through interest, ESCT rules, FBT rules, income year, look-through company, look-through interest, market value circumstance, market value interest, NRWT rules, PAYE rules, RSCT rules, RWT rules

“HB 2 Previous income and expenditure or loss

Despite a person who has an effective look-through interest for a look-through company (the LTC) not having an interest at the relevant time, the person may be treated as deriving income or incurring an expenditure or loss which the LTC derived or incurred ignoring **section HB 1**, or would have de-

rived or incurred ignoring **section HB 1** if it had not ceased to exist. This section does not allow 2 deductions for 1 expenditure or loss, and may apply to income derived before the LTC becomes a look-through company.

“Defined in this Act: effective look-through interest, income, income year, look-through company

“HB 3 Loss balances extinguished

Despite **sections HB 1 and HB 2**, a loss balance under Part I (Treatment of tax losses) is cancelled if the loss balance arose in relation to an income year when a company was not a look-through company, or when a company that amalgamates with a look-through company was not a look-through company.

“Defined in this Act: amalgamation, company, income year, look-through company, loss balance

“HB 4 General provisions relating to disposals

“Relationship between disposal under this section, disposal safe harbours, and subpart FB

“(1) This section overrides **sections HB 5 to HB 9**. This section does not apply, and **sections HB 5 to HB 9** do not apply, for disposals of owners’ interests under transactions to which subpart FB (Transfers of relationship property) applies or is treated as applying.

“Election for specified livestock disposed of to new owner

“(2) **Section HB 10** applies for an entering owner if the entering owner furnishes a return of income that applies the section.

“Permanent cessation

“(3) A person is treated as disposing of all of their owner’s interests for a look-through company to a single third party for a payment equal to the interests’ market value, if the look-through company ceases to exist as an entity through liquidation, court order, or otherwise.

“Capital reduction

“(4) A person is treated as disposing of all of their owner’s interests for a look-through company to a single third party for a payment equal to the interests’ market value to the extent to which an owner’s capital is reduced by a cancellation or a buy-back by the look-through company that is not pro rata for all owners.

“Receipt upon permanent cessation

“(5) Anything received by an owner in relation to permanent cessation or capital reduction, as described in **subsections (3) or (4)**, is ignored.

“Cessation due to revocation or otherwise

- “(6) A person is treated as disposing of all of their owner’s interests for a look-through company to a single third party for a payment equal to the interests’ market value, if the look-through company ceases to be a look-through company because of a revocation or otherwise, but excluding cessation as described in **subsection (3)**. The company is treated as acquiring all of the person’s interests immediately after the cessation, from the third party, for a payment equal to the interests’ market value, and for the purposes of section CB 15 (Transactions between associated persons), the person disposing of, and the company acquiring, the interests are treated as associated persons.

“Defined in this Act: associated person, dispose, look-through company, owner’s interests, pay, return of income

“**HB 5 Disposal of owner’s interests**

“When this section applies

- “(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner’s interests (the **current interests**) for a look-through company, if the amount calculated using the formula is less than zero—

disposal payment + previous payments – (gross tax value – liabilities) – \$50,000.

“Definition of items in formula

- “(2) In the formula,—

“(a) **disposal payment** is the total amount of consideration paid or payable to the exiting owner for the current interests:

“(b) **previous payments** is the total amount of consideration paid or payable to the exiting owner for other disposals of some or all of their owner’s interests (the **other interests**) that have occurred in the year before the disposal of the current interests:

“(c) **gross tax value** is the total of—

“(i) the value under this Act of the current interests and other interests at the time the relevant interest is disposed of, to the extent to which the interests are revenue account property or depreciable property or financial arrangements:

“(ii) the market value of the current interests and other interests at the time the relevant interest is disposed of, to the extent to which the interests are not revenue account property or depreciable property or financial arrangements:

“(d) **liabilities** is the amount of liabilities under generally accepted accounting practice at the time the relevant inter-

est is disposed of, calculated by reference to the exiting owner's ownership share for the relevant interest.

“Exiting owner: excluded payment

- “(3) The disposal payment described in **subsection (2)(a)** is excluded income of the exiting owner.

“Exiting owner: no deduction

- “(4) The exiting owner is denied a deduction in relation to the current interests for the income year in which the disposal of the interests occurs and later income years to the extent to which the entering owner is allowed a deduction because of **subsection (6)**.

“Entering owner: no deduction

- “(5) An entering owner is denied a deduction for the disposal payment described in **subsection (2)(a)**.

“Entering owner: stepping in

- “(6) For the purposes of calculating the income and deductions of an entering owner for the part of the income year after the disposal of the interests occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had originally acquired and held the current interests, not the exiting owner. However, this subsection does not apply to a deduction carried forward under **section HB 12**.

“Relationship with section HB 4

- “(7) **Section HB 4** overrides this section.

“Defined in this Act: deduction, depreciable property, dispose, entering owner, excluded income, financial arrangement, income tax liability, look-through company, owner's interests, pay, return of income, revenue account property, year

“HB 6 Disposal of trading stock

“When this section applies

- “(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner's interests for a look-through company, to the extent to which those interests include trading stock that is not livestock, and, for the income year of disposal, the total turnover of the look-through company, ignoring **section HB 1**, is \$3,000,000 or less.

“Exiting owner: excluded payment

- “(2) The amount of consideration paid or payable to the exiting owner for the trading stock is excluded income of the exiting owner.

“Exiting owner: no deduction

- “(3) The exiting owner is denied a deduction in relation to the trading stock for the income year in which the disposal of the trading stock occurs and later income years, to the extent to which the entering owner is allowed a deduction because of **subsection (5)**.

“Entering owner: no deduction

- “(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the trading stock.

“Entering owner: stepping in

- “(5) For the purposes of calculating the income tax liability of an entering owner, the entering owner is treated as if they had acquired and held the trading stock, not the exiting owner.

“Relationship with section HB 4

- “(6) **Section HB 4** overrides this section.

“Defined in this Act: deduction, dispose, entering owner, excluded income, income tax liability, income year, look-through company, owner’s interests, pay, trading stock, turnover

“**HB 7 Disposal of depreciable property**

“When this section applies

- “(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner’s interests for a look-through company, to the extent to which those interests include an item of depreciable property that is not depreciable intangible property, and the total cost of the item when it was first acquired by the look-through company (whether or not it was at that time a look-through company) is \$200,000 or less.

“Exiting owner: excluded payment

- “(2) The amount of consideration paid or payable to the exiting owner for the depreciable property is excluded income of the exiting owner.

“Exiting owner: no deduction

- “(3) The exiting owner is denied a deduction in relation to the depreciable property for the income year in which the disposal of the depreciable property occurs and later income years, to the extent to which the entering owner is allowed a deduction because of **subsection (5)**.

“Entering owner: no deduction

- “(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the depreciable property.

“Entering owner: stepping in

- “(5) For the purposes of calculating the income tax liability of an entering owner for the part of the income year after the disposal of the depreciable property occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had originally acquired and held the depreciable property, not the exiting owner.

“Relationship with section HB 4

- “(6) **Section HB 4** overrides this section.

“Defined in this Act: acquire, amount, deduction, depreciable intangible property, depreciable property, dispose, entering owner, excluded income, income tax liability, income year, look-through company, owner’s interests, pay

“HB 8 Disposal of financial arrangements and certain excepted financial arrangements

“When this section applies

- “(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner’s interests for a look-through company, to the extent to which those interests include a financial arrangement or an excepted financial arrangement described in section EW 5(10) (What is an excepted financial arrangement?) and, ignoring **section HB 1**,—

“(a) the purpose for which the financial arrangement or excepted financial arrangement was entered into was necessary and incidental to the business of the look-through company; and

“(b) the owners do not derive income from a business of holding financial arrangements.

“Exiting owner: excluded payment

- “(2) The amount of consideration paid or payable to the exiting owner for the relevant financial arrangement or excepted financial arrangement is excluded income of the exiting owner. The exiting owner is, for the relevant financial arrangement, a party that is not required to calculate a base price adjustment, despite section EW 29 (When calculation of base price adjustment required).

“Exiting owner: no deduction

- “(3) The exiting owner is denied a deduction in relation to the relevant financial arrangement or excepted financial arrangement for the income year in which the disposal of the financial arrangement or excepted financial arrangement occurs and later income years.

“Entering owner: no deduction

- “(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the relevant financial arrangement or excepted financial arrangement.

“Entering owner: stepping in

- “(5) For the purposes of calculating the income tax liability of an entering owner for the part of the income year after the disposal of the relevant financial arrangement or excepted financial arrangement occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had acquired and held the financial arrangement or excepted financial arrangement, not the exiting owner.

“Relationship with section HB 4

- “(6) **Section HB 4** overrides this section.

“Defined in this Act: business, deduction, dispose, entering owner, excepted financial arrangement, excluded income, financial arrangement, income tax liability, income year, look-through company, owner’s interests, pay

“HB 9 Disposal of short-term agreements for sale and purchase

“When this section applies

- “(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner’s interests for a look-through company, to the extent to which those interests include a short-term agreement for sale and purchase.

“Exiting owner: excluded payment

- “(2) The amount of consideration paid or payable to the exiting owner for the short-term agreement for sale and purchase is excluded income of the exiting owner.

“Exiting owner: no deduction

- “(3) The exiting owner is denied a deduction in relation to the short-term agreement for sale and purchase, to the extent to which the entering owner is allowed a deduction because of **subsection (5)**.

“Entering owner: no deduction

- “(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the short-term agreement for sale and purchase.

“Entering owner: stepping in

- “(5) For the purposes of calculating the income tax liability of an entering owner for the part of the income year after the disposal of the short-term agreement for sale and purchase occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had

originally acquired and held the short-term agreement for sale and purchase, not the exiting owner.

“Relationship with section HB 4

“(6) **Section HB 4** overrides this section.

“Defined in this Act: deduction, dispose, entering owner, excluded income, income tax liability, income year, look-through company, owner’s interests, pay, short-term agreement for sale and purchase

“HB 10 Disposal of livestock

“When this section applies

“(1) This section applies when a person disposes of some or all of their owner’s interests to an entering owner and **section HB 4(2)** applies, to the extent to which those interests include specified livestock and that specified livestock includes female breeding livestock and, for the income year, the owners use—

“(a) the national standard cost scheme for specified livestock, described in section EC 22 (National standard cost scheme); or

“(b) the cost price method for specified livestock, described in section EC 25 (Cost price, replacement price, or market value).

“Entering owner’s cost base

“(2) Section EC 26B (Entering partners’ cost base) may apply to the entering owner for the purposes of determining the value of the specified livestock at the end of an income year for the purposes of section EC 2 (Valuation of livestock), treating the entering owner as an entering partner and making other necessary modifications to section EC 26B to give effect to the purpose of this section (for example, references in section EC 26B to ‘partners’ should be modified to references to ‘owners’ and references to ‘section HG 10’ should be modified to references to ‘section HB 10’).

“Defined in this Act: amount, cost price, dispose, entering owner, entering partner, income year, look-through company, national standard cost scheme, owner’s interests, specified livestock

“HB 11 Limitation on deductions by persons with interests in look-through companies

“When this section applies

“(1) This section applies for a look-through company (the **LTC**) and an income year when, but for this section, a deduction by virtue of **section HB 1 or HB 12(2) or (3)** would be allowed to a person who has an effective look-through interest for the LTC.

“No deduction

- “(2) The person is denied the deduction for an income year to the extent to which their look-through company deduction for the income year is greater than the amount (the **owner’s basis**) calculated using the formula in **subsection (3)** at the end of the income year.

“Owner’s basis

- “(3) For the purposes of **subsection (2)**, the amount that is the owner’s basis is calculated using the following formula:

investments – distributions + income – deductions – disallowed amount.

“Definition of items in formula

- “(4) The items in the formula are defined in **subsections (5) to (9)**.

“Investments

- “(5) **Investments** is the total of—

- “(a) the market value of a person’s shares in the LTC at the time that the person purchases or subscribes for them;
- “(b) amounts that the LTC is debtor for in relation to the person, including a loan to the LTC and a credit balance in a current account;
- “(c) the secured amounts, if not accounted for under **paragraph (b)**.

“Distributions

- “(6) **Distributions** is the market value of distributions to the person from the LTC, including loans made to the person from the LTC and payments to which **section DC 3B** (Payments to working owners) does not apply.

“Income

- “(7) **Income** is the total of—

- “(a) income that the person has by virtue of **section HB 1** in the income year and previous income years, excluding dividends paid by a FIF for which the person has FIF income to the extent to which those dividends are equal to or less than the person’s FIF income for the relevant income year;
- “(b) capital gain amounts under section CD 44(7)(a) (Available capital distribution amount) that the person would have by virtue of **section HB 1** in the income year and previous income years, if the person were treated as a company for the purposes of section CD 44(7)(a), unless the gain is accounted for under **paragraph (a)**;
- “(c) assessable income that the person has in previous income years from goods and services they contributed to the LTC, if the income is not accounted for under

subsection (5) or paragraph (a) or (b) of this subsection.

“Deductions

- “(8) **Deductions** is the total of—
- “(a) expenditure or loss in previous income years, to the extent to which the expenditure or loss is incurred by virtue of **section HB 1** in the person deriving income by virtue of **section HB 1**, excluding any deductions denied in those previous years under this section:
 - “(b) capital loss amounts under section CD 44(9) that the person would have by virtue of **section HB 1** in the income year and previous income years, if the person is treated as a company for the purposes of section CD 44(9), unless the loss is accounted for under **paragraph (a)**:
 - “(c) deductions that the person is allowed in previous income years in relation to assessable income described in **subsection (7)(c)**, if the deduction is not accounted for under **subsection (6) or paragraph (a) or (b)** of this subsection.

“Disallowed amount

- “(9) **Disallowed amount** is the amount of investments, as defined in **subsection (5)**, made by the person within 60 days of the end of the income year, if those investments are or will be distributed or reduced within 60 days of the end of the income year, but an amount of investment made by the person within 60 days of the end of the income year is not a disallowed amount if the total amount distributed or reduced within 60 days of the end of the income year is \$10,000 or less.

“Exclusion

- “(10) This section does not deny a person (the **exiting person**) a deduction that is equal to or less than the amount of net income that the exiting person has for the amount paid or payable to the exiting person for the disposal of their owner’s interests, ignoring other transactions.

“Relationship with subject matter

- “(11) This section is modified by **section HZ 4C** (Qualifying companies: transition into look-through companies).

“Some definitions

- “(12) In this section,—
- “**look-through company deduction** means, for the person and the income year, the amount of the deductions that the person would be allowed if they were treated as having only income and deductions arising from the application of this subpart:

- “**secured amounts** means, for the person, the lesser of—
- “(a) the amount of the look-through company’s debt ignoring **section HB 1** (the **debt**) that the person or an associated person secures by a guarantee or indemnity:
 - “(b) the amount that results from dividing the amount described in **paragraph (a)** by the number of persons who secure by guarantee or indemnity on similar terms to the 1 described in **paragraph (a)**, excluding the look-through company:
 - “(c) the amount that is the market value of property against which the guarantee or indemnity described in **paragraph (a)** may be enforced, treating the person’s owner’s interests as having a market value of zero:
 - “(d) the proportion of the amount described in **paragraph (c)** that is attributable to the person in the case of a number of persons securing the debt by guarantee or indemnity on similar terms to the 1 described in **paragraph (a)**, excluding the look-through company.

“Defined in this Act: amount, assessable income, associated person, company, deduction, dispose, dividend, effective look-through interest, FIF, FIF income, income, income year, loan, look-through company, look-through company deduction, loss, net income, net loss, owner’s interests, pay, secured amounts, share

“**HB 12 Limitation on deductions by owners of look-through companies: carry-forward**

“*When this section applies*

- “(1) This section applies when, for an income year, a person is denied a deduction under **section HB 11**.

“*Carry-forward: conditional on continued existence of look-through company and holding of effective look-through interest*

- “(2) The person is allowed a deduction, for an amount for which the person is denied a deduction under **section HB 11**, for the income year (the **later year**) after the income year for which it is denied under **section HB 11**, unless—

- “(a) the look-through company ceases to be a look-through company in the later year:
- “(b) the person ceases to have an effective look-through interest in the later year.

“*Carry-forward: resumption*

- “(3) If a person would have been allowed a deduction for an amount but for the application of **subsection (2)(a) or (b)** for the later year, they are allowed a deduction for the amount for the first income year after the later year in which either they resume an effective look-through interest for the

look-through company, or the relevant company resumes being a look-through company. However, the amount of that deduction is reduced by the total amount allowed as a deduction under **subsections (4) and (5)**.

“Exception for deductions against continuing company dividends

- “(4) Despite **subsection (2)**, the person is allowed a deduction for the later year for an amount (the **protected amount**) for which they would have been allowed a deduction but for the application of **subsection (2)(a) or (b)** for the later year to the extent to which the protected amount is equal to or lesser than the dividends received by the person from the company for the later year.

“Further deductions against continuing company dividends

- “(5) For an income year after the later year, an amount equal to the protected amount reduced by the total of deductions allowed in income years before the income year under **subsection (4)** and this subsection, is allowed as a deduction for the person to the extent to which the amount is equal to or less than the dividends received by the person from the company for the income year.

“Relationship with subject matter

- “(6) A deduction allowed under this section, other than under **subsection (4) or (5)**, is subject to **section HB 11**, to the extent to which that section applies to the deduction and the relevant person.

“Defined in this Act: amount, deduction, dividend, effective look-through interest, income year, look-through company

“HB 13 LTC elections

“LTC elections

- “(1) For the purposes of **section HB 1**, an LTC election (the **election**) is a notice that—
- “(a) is signed and dated by a director of the company that becomes a look-through company (the **LTC**) or other agent with appropriate authority; and
 - “(b) is in the form prescribed by the Commissioner; and
 - “(c) specifies an income year beginning on or after 1 April 2011 for which it may first operate; and
 - “(d) has attached to it notices—
 - “(i) signed and dated by all persons who, on the date of signing the election, own look-through interests in the **LTC**; and
 - “(ii) evidence unanimous agreement of the owners in choosing to apply **section HB 1**.

“Legal incapacities

- “(2) If a person owns a look-through interest in the LTC, and either they are under 18 years old with a guardian or a contract they enter into could be unenforceable, cancelled, void, or voidable due to any legal incapacity other than age, the notice requirement in **subsection (1)(d)** is modified so as to require a guardian, person with power of attorney, or other legal representative to sign and date the written notice, instead of the person.

“Time of receipt of LTC elections

- “(3) For the purposes of **section HB 1**, the election—
- “(a) must be received by the Commissioner before the start of the income year specified in the election; or
 - “(b) in the case of a company that has not previously been required to file a return of income for a year before the income year specified in the election, must be received by the Commissioner before the last day for filing the return of income required by **section 42B** of the Tax Administration Act 1994 for the year specified in the election; or
 - “(c) in the case of a company that was a qualifying company that first becomes a look-through company for the first or second income year that starts on or after 1 April 2011, must be received by the Commissioner within 6 months of the start of the relevant transitional income year described in **section HZ 4C(1)** (Qualifying companies: transition into look-through companies).

“Income year for which LTC elections are treated as received

- “(4) For the purposes of **section HB 1**, the election is treated as received for the first relevant income year described in **subsection (3)** and for each income year after that one, except it is treated as not received by the Commissioner for an income year (the **income year**) and subsequent income years if—
- “(a) the election has been revoked for the income year under **section HB 1**;
 - “(b) the LTC does not meet the requirements in the definition of **look-through company** at all times in the income year;
 - “(c) the income year is 1 of the 2 income years straight after an income year for which either the LTC ceases to be a look-through company or the relevant election for the LTC is revoked.

“Commissioner’s discretion as to LTC elections

- “(5) An election that is late or does not have each person signing and dating as required by **subsections (1)(b) and (2)** is

treated as an election that has been received by the Commissioner for the income year under **subsection (3)** but subject to **subsection (4)**, if all relevant persons sign and date it during the income year it may first operate, and the Commissioner decides that exceptional circumstances are the sole cause of the lateness or failure to sign and date.

“Defined in this Act: Commissioner, company, director, income year, look-through company, look-through interest, notice, qualifying company, return of income”.

- (2) **Subsection (1)** applies—
- (a) for income years beginning on or after 1 April 2011:
 - (b) for purposes of the Commissioner receiving LTC elections, on and after the date of enactment of the Taxation (GST and Remedial Matters) Act **2010**.

41N Who is a settlor?

After section HC 27(1)(c), the following is inserted:

“(cb) **section MB 7** (Family scheme income of settlor of trust); and”.

New clauses 42BA and 42BAB

To insert, after *clause 42* (after line 11 on page 42), the following:

42BA Limitation on deductions by partners in limited partnerships

- (1) In section HG 11(11), “sections HZ 3 and HZ 4” is replaced by “sections HZ 3, HZ 4, and **HZ 4B**”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

42BAB Limitation on deductions by partners in limited partnerships: carry-forward

- (1) In section HG 12(2), “the income year after the one for which it is denied under section HG 11” is replaced by “the income year (the **later income year**) after the one for which it is denied under section HG 11, unless—”, and the following is added:
 - “(a) the limited partnership ceases to be a limited partnership in the later year:
 - “(b) the partner ceases to be a partner in the later year”.
- (2) After section HG 12(2), the following is inserted:

“*Carry-forward: resumption*

“(2B) If a person would have been allowed a deduction but for the application of **subsection (2)(b)** for the later year, they are allowed a deduction for the amount for the first income year after the later year in which they resume being a partner in the limited partnership.”

New clause 47C

To insert, after *clause 47B* (after line 18 on page 45), the following:

47C Exceptions for certain funds

- (1) In section HM 22(1), “a PIE” is replaced by “an entity”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years.

New clause 51B

To insert, after *clause 51* (after line 21 on page 47), the following:

51B When income cannot be attributed

- (1) After section HM 37(2), the following is added:
“Relationship with section CS 1
“(3) For the purposes of subsection (1), income derived under section CS 1 (Withdrawals) by a multi-rate PIE that is a superannuation fund is treated as income in which no investor has an investor interest.”
- (2) Section HM 37(3) is repealed.

New clause 57BA

To insert, after *clause 57* (after line 32 on page 48), the following:

57BA New sections HZ 4B to HZ 4D inserted

- (1) After section HZ 4, the following is inserted:
“HZ 4B Qualifying companies: transition into partnership
“When this section applies
“(1) This section applies when a QCP transitional process is carried out for a qualifying company or companies for the first or second income year that starts on or after 1 April 2011, whichever is relevant (the **transitional income year**).
“QCP transitional process: retrospective rule
“(2) From the first day of the transitional income year to the first day of existence for the partnership that effectively replaces the qualifying company or companies under a QCP transitional process, the partnership is treated as existing and having the assets and liabilities of the qualifying company or companies, and associated rights and obligations, for that period. On and after the first day of the transitional year, the existence of the qualifying company or companies is ignored for the purposes of the Inland Revenue Acts except to the extent necessary to give effect to this section.
“Taxation continuity
“(3) The moving to the partnership of the assets, liabilities, and associated rights and obligations, under a QCP transitional process is treated for the purposes of the Inland Revenue Acts

as a unique form of transference for such assets, liabilities, rights, and obligations, with the following effects:

- “(a) the moving to the partnership of the assets, liabilities, and associated legal rights and obligations, is treated as not being a transfer of such assets, liabilities, rights, and obligations:
- “(b) the qualifying company or companies has, before the first day of the transitional income year, the relevant tax position in relation to the assets and liabilities, and associated rights and obligations (the **historical tax positions**):
- “(c) the partnership is treated as stepping into the place of the qualifying company or companies, and as having, on and after the first day of the transitional income year,—
 - “(i) the qualifying company’s or companies’ historical tax positions; and
 - “(ii) the tax position in relation to the assets and liabilities, and associated rights and obligations, that it would have if it had always had the historical tax positions:
- “(d) the qualifying company has no tax position in relation to the assets and liabilities, and associated rights and obligations, on and after the first day of the transitional income year:
- “(e) all memorandum account balances and other tax accounting amounts for the qualifying company before the first day of the transitional income year are ignored and have no effect on and after that day (for example, the qualifying company has no effective ASC on and after the first day of the transitional income year).

“*Transparency*

- “(4) **Subsections (2) and (3)** are applied immediately before section HG 2 (Partnerships are transparent) applies.

“*Initial basis*

- “(5) For the purposes of applying sections HG 11 and HG 12 (which relate to limited partnership deduction rules) to the partners of a limited partnership described in **subsection (2)**, all of the partners must choose 1 of the 2 following methods for calculating their partner’s basis under section HG 11(3):
 - “(a) they may choose to use the market value or the accounting book value of the amounts described in section HG 11(3), as at the end of the income year before the transitional income year; or
 - “(b) they may choose to apply section HG 11(3) as if the qualifying company had always been a limited partner-

ship and all relevant rules relating to limited partnerships had always existed, applying those rules with any necessary modifications.

“Initial basis not less than zero

- “(6) If the application of sections HG 11 and HG 12, as modified by this section, calculates a partner’s basis as less than zero, then the partner’s basis is treated as being zero.

“Meaning of QCP transitional process

- “(7) **QCP transitional process** means a process, for which all outcomes are achieved in an income year (the **transitional income year**), by which a company or companies that are all qualifying companies at the end of the income year before the transitional income year transform into a partnership. The process must have the following outcomes:

“(a) the Commissioner receives a notice from the qualifying company or companies before the day that is six months after the start of the transitional income year, stating an intention to revoke the company’s or companies’ qualifying company status and to complete the QCP transitional process relating to the partnership for the transitional income year; and

“(b) the partners, or in the case of a limited partnership, the partners other than a company that is a general partner, are the same persons who, at the end of the income year before the transitional income year, were the shareholders of the qualifying company or companies, ignoring any person who dies in the transitional year; and

“(c) all assets and liabilities, and associated rights and obligations, of the qualifying companies are moved to the partnership, excluding those that are inappropriate for a partnership; and

“(d) each partner must have the same net position in the partnership as to relevant assets and liabilities, and associated rights and obligations, as would arise on the winding up of the qualifying company or companies at the end of the income year before the transitional income year, treating any person who dies in the transitional year as still being a partner.

“Defined in this Act: ASC, Commissioner, company, income year, Inland Revenue Acts, limited partnership, memorandum account, partner, partnership, QCP transitional process, qualifying company, tax position, transfer

“HZ 4C Qualifying companies: transition into look-through companies

“When this section applies

- “(1) This section applies when a qualifying company first becomes a look-through company for the first or second income year, whichever is relevant, that starts on or after 1 April 2011 (the **transitional year**).

“Initial basis

- “(2) For the purposes of applying **sections HB 11 and HB 12** (which relate to look-through company deduction rules) to a person with an effective look-through interest for the look-through company, all of the persons who hold owner’s interests must choose 1 of the 2 following methods for calculating their basis under **section HB 11(3)**:

“(a) they may choose to use the market value or the accounting book value of the amounts described in **section HB 11(3)**, as at the end of the income year before the transitional income year; or

“(b) they may choose to apply **section HB 11(3)** as if the qualifying company had always been a look-through company and all relevant rules relating to look-through companies had always existed, applying those rules with any necessary modifications.

“Initial basis not less than zero

- “(3) If the application of **sections HB 11 and HB 12**, as modified by this section, calculates an owner’s basis as less than zero, then the owner’s basis is treated as being zero.

“Defined in this Act: effective look-through interest, income year, look-through company, owner’s interests, qualifying company

“HZ 4D Qualifying companies: transition into sole traderships

“When this section applies

- “(1) This section applies when a QCST transitional process is carried out for a qualifying company for the first or second income year, whichever is relevant, that starts on or after 1 April 2011 (the **transitional income year**).

“QCST transitional process: retrospective rule

- “(2) From the first day of the transitional income year to the first day of existence for the sole tradership that effectively replaces the qualifying company under a QCST transitional process, the sole tradership is treated as existing and having the assets and liabilities of the qualifying company, and associated rights and obligations, for that period. On and after the first day of the transitional year, the existence of the qualifying company

is ignored for the purposes of the Inland Revenue Acts except to the extent necessary to give effect to this section.

“Taxation continuity

“(3) The moving to the sole tradership of the assets, liabilities, and associated rights and obligations, under a QCST transitional process is treated for the purposes of the Inland Revenue Acts as a unique form of transference for such assets, liabilities, rights, and obligations, with the following effects:

“(a) the moving to the sole tradership of the assets, liabilities, and associated rights and obligations, is treated as not being a transfer of such assets, liabilities, rights, and obligations:

“(b) the qualifying company has, before the first day of the transitional income year, the tax position in relation to the assets and liabilities, and associated rights and obligations (the **historical tax position**):

“(c) the sole tradership is treated as stepping into the place of the qualifying company, and as having, on and after the first day of the transitional income year,—

“(i) the qualifying company’s historical tax position; and

“(ii) the tax position in relation to the assets and liabilities, and associated rights and obligations, that it would have if it had always had the historical tax position:

“(d) the qualifying company has no tax position in relation to the assets and liabilities, and associated rights and obligations, on and after the first day of the transitional income year:

“(e) all memorandum account balances and other tax accounting amounts for the qualifying company before the first day of the transitional income year are ignored and have no effect on and after that day (for example, the qualifying company has no effective ASC on and after the first day of the transitional income year).

“Meaning of QCST transitional process

“(4) **QCST transitional process** means a process, for which all outcomes are achieved in an income year (the **transitional income year**), by which a company that is a qualifying company at the end of the income year before the transitional income year is transformed into a sole tradership. The process must have the following outcomes:

“(a) the Commissioner receives a notice from the qualifying company before the day that is 6 months after the start of the transitional income year, stating an intention to revoke the company’s qualifying company status and

- to complete the QCST transitional process relating to the sole tradership for the transitional income year; and
- “(b) the sole tradership is the same natural person who, at the end of the income year before the transitional income year, is the sole shareholder of the qualifying company; and
- “(c) all assets and liability, and associated rights and obligations, of the qualifying company are moved to the sole tradership, excluding those that are inappropriate for a sole tradership.

“Defined in this Act: ASC, Commissioner, company, income year, Inland Revenue Acts, memorandum account, notice, QCST transitional process, qualifying company, tax position, transfer”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

New clauses 62B and 62C

To insert, after *clause 62* (after line 9 on page 50), the following:

62B Adjustments for calculation of family scheme income

- (1) Section MB 1(2), except for the heading, is replaced by the following:
- “(2) For the purposes of subsection (1), an amount derived by the person in the income year is not treated as exempt income if it is—
- “(a) an amount referred to in section CW 28(1)(e) or CW 32 (which relate to overseas pensions and maintenance payments):
- “(b) an amount of salary or wages that is exempt from income tax under an Act, or under a regulation or Order in Council made under an Act, that is listed in **scheduled 38** (Acts exempting income from tax: income included in family scheme income).”
- (2) Section MB 1(5) is replaced by the following:
- Income from portfolio investment entities*
- “(5) For the purposes of subsection (1),—
- “(a) an amount of income attributed by a portfolio investment entity to the person for an income year—
- “(i) is not included in family scheme income of the person for the income year if the portfolio investment entity is a superannuation fund or retirement savings scheme:
- “(ii) is included in family scheme income of the person for the income year if **subparagraph (i)** does not apply:

- “(b) a distribution from a listed PIE that is derived by the person in an income year is included in family scheme income of the person for the income year.”
- (3) After section MB 1(5C), the following is inserted:
“Refunds from main income equalisation accounts
- “(5D) For the purposes of subsection (1), a refund under sections EH 8 to EH 26 (which relate to refunds from main income equalisation accounts) of a deposit made on or after 1 April 2011 is not included in family scheme income of a person, except to the extent that the refund is interest payable to the person under section EH 6 (Interest on deposits in main income equalisation account).”
- (4) Section MB 1(6) is repealed.
- (5) In section MB 1, in the list of defined terms, “income tax”, “listed PIE”, “main income equalisation account”, “retirement savings scheme”, “salary or wages”, and “superannuation fund” are inserted.

62C New sections MB 7 to MB 13 added

After section MB 6, the following is added:

“MB 7 Family scheme income of settlor of trust

“When this section applies

- “(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when the person is the settlor of a trust (the **person’s trust**) at a time in the income year, other than solely as a result of providing personal services for less than market value in the administration of the trust or the maintenance of trust property.

“Exception for some trusts

- “(2) This section does not apply if—
- “(a) the trustee of the person’s trust is registered as a charitable entity under the Charities Act 2005:
- “(b) the person’s trust is solely for the benefit of a local authority:
- “(c) interest and dividends derived by the trustee of the person’s trust would be exempt income of the trustee under section CW 45 (Funeral trusts):
- “(d) the person’s trust is a superannuation fund:
- “(e) the person and the members of the person’s family are not permitted to benefit from the person’s trust except under an order of a court.

“What is included in family scheme income

- “(3) The person’s family scheme income for the income year includes an amount calculated using the formula—

$$\frac{\text{trustee} + \text{company} - \text{dividends}}{\text{settlor number}}$$

settlor number.

“Definition of items in formula

- “(4) In the formula—

“(a) **trustee** is the net income of the trustee of the person’s trust for the income year reduced, to not less than zero, by the amount of the trustee’s income that vests or is paid by the trustee as beneficiary income for the income year:

“(b) **company** is the total of amounts calculated for companies in which, at the end of the company’s income year, the trustee of the person’s trust and associated persons hold voting interests of 50% or more, or market value interests of 50% or more if there is a market value circumstance, with the amount for each company being calculated by multiplying the company’s net income for the income year by the trustee’s voting interest or market value interest in the company at the end of the income year:

“(c) **dividends** is the total amount, not exceeding the item company, of dividends that are derived by the trustee of the person’s trust in the income year from companies referred to in **paragraph (b)**:

“(d) **settlor number** is the number of settlors of the person’s trust, including the person, for which this section applies.

“Defined in this Act: amount, beneficiary income, company, dividend, exempt income, family scheme income, income, income year, interest, local authority, market value, market value circumstance, market value interest, net income, settlor, superannuation fund, trustee, trustee income, voting interest

“MB 8 Family scheme income from fringe benefits

“When this section applies

- “(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when—

“(a) the person is an employee of a company in which the person and associated persons hold—

“(i) voting interests of 50% or more:

“(ii) market value interests of 50% or more, if a market value circumstance exists; and

“(b) the company provides a fringe benefit that must be attributed to the person under section RD 47 (Attribution of certain fringe benefits).

“*What is included in family scheme income*

“(2) The person’s family scheme income for the income year includes an amount equal to the total of the following amounts:

“(a) the taxable value of the fringe benefits that the company must attribute to the person under sections RD 47 to RD 49 for the income year; and

“(b) the company’s FBT liability in relation to the person under section RD 50 (Employer’s liability for attributed benefits) for the income year.

“Defined in this Act: associated person, company, employee, family scheme income, FBT, fringe benefit, income year, market value circumstance, market value interest, voting interest

“**MB 9 Family scheme income from deposits in main income equalisation accounts**

The family scheme income of a person for an income year includes the amount of a deduction under section DQ 1 (Main income equalisation scheme) allowed for a payment made to the Commissioner under section EH 4 (Main deposit) for an accounting year, corresponding to the same tax year as does the income year, and for a business of—

“(a) the person:

“(b) a company that meets the requirements of section MB 4 for the person’s family scheme income to be affected by net income of the company for the accounting year:

“(c) a trustee of a trust that meets the requirements of **section MB 7** for the person’s family scheme income to be affected by net income of the trustee for the accounting year:

“(d) a company in which a trustee referred to in **paragraph (c)** and associated persons hold a voting interest of 50% or more, or a market value interest of 50% or more if a market value circumstance exists.

“Defined in this Act: accounting year, business, close company, Commissioner, company, family scheme income, income year, market value circumstance, market value interest, net income, pay, voting interest

“**MB 10 Family scheme income from certain pensions and annuities**

“*When this section applies*

“(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when the person derives in the income year a

pension or annuity that is exempt income of the person under section CW 4 (Annuities under life insurance policies) or is a pension from a superannuation fund.

“Half of pension or annuity included in family scheme income

“(2) The family scheme income of the person for the income year—

“(a) includes half of the amount of pension or annuity derived in the income year; and

“(b) does not include the other half of the amount of pension or annuity derived in the income year.

“Defined in this Act: amount, excluded income, exempt income, family scheme income, income year

“MB 11 Family scheme income from amounts derived by dependent children

“When this section applies

“(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when a dependent child of the person derives in the income year an amount that is—

“(a) resident passive income:

“(b) a royalty:

“(c) rent:

“(d) beneficiary income that is not an amount referred to in section HC 35(4)(b)(i), (ii), or (v) (Beneficiary income of minors):

“(e) attributed income from a portfolio investment entity that is not a superannuation fund or retirement savings scheme:

“(f) a distribution from a listed PIE.

“(2) The family scheme income of the person for the income year includes the amount by which the total of amounts derived by the dependent child in the income year and referred to in **subsection (1)** exceeds \$500.

“Defined in this Act: beneficiary income, dependent child, excluded income, family scheme income, income year, listed PIE, portfolio investment entity, resident passive income, retirement savings scheme, royalty, superannuation fund

“MB 12 Family scheme income from non-residents’ foreign-sourced income

The family scheme income of a person for an income year includes the non-residents’ foreign-sourced income for the income year of the person’s spouse, civil union partner, or de facto partner.

“Defined in this Act: civil union partner, de facto partner, family scheme income, income year, non-residents’ foreign-sourced income, spouse

“MB 13 Family scheme income from other payments

- “(1) The family scheme income of a person for an income year includes the value of payments—
- “(a) paid or provided to the person from any source; and
 - “(b) used by the person to—
 - “(i) replace lost or diminished income of the person or the person’s family:
 - “(ii) meet usual living expenses of the person or the person’s family; and
 - “(c) not excluded from family scheme income under **subsection (2)**.
- “*Payments and benefits excluded from family scheme income*
- “(2) A payment to a person is not included under **subsection (1)** in the family scheme income of the person if it is—
- “(a) a loan under ordinary commercial terms and conditions:
 - “(b) from an amount that is—
 - “(i) proceeds of the disposal of property; and
 - “(ii) not assessable income of the person disposing of the property:
 - “(c) a payment on behalf of the person by a local authority or public authority:
 - “(d) a forgiveness of debt by a public authority:
 - “(e) a charitable distribution from a charitable entity registered under the Charities Act 2005:
 - “(f) an educational scholarship:
 - “(g) a student loan under the Student Loan Scheme Act 1992:
 - “(h) a grant for the payment of expenses relating to medical treatment or a funeral:
 - “(i) a payment under an insurance contract, other than a payment for a loss of income:
 - “(j) compensation for a loss other than a loss of income:
 - “(k) lump sum compensation under the Accident Compensation Act 2001:
 - “(l) a monetary benefit under the Social Security Act 1964 that is exempt income:
 - “(m) a pension or allowance under the War Pensions Act 1954 that is exempt income:
 - “(n) a payment that is exempt income under section CW 33(1)(c), (e), or (f) (Allowances and benefits):
 - “(o) an amount that is declared not to be income for the purposes of the Social Security Act 1964 by a regulation under section 132 of that Act:
 - “(p) included in the family scheme income of the person under another section:

“(q) expressly excluded from the family scheme income of the person under another section.

“Exception for total value of payments less than threshold

“(3) If, in the absence of this subsection, the total value of payments that would be included under **subsection (1)** in the person’s family scheme income for the income year is less than or equal to \$5,000, that total value is not included in the person’s family scheme income for the income year.

“Defined in this Act: assessable income, dispose, exempt income, family scheme income, income, income year, insurance contract, land, loan, local authority, pay, public authority”.

New clause 64C

To insert, after *clause 64B* (after line 23 on page 50), the following:

64C Tax credit for redundancy payments

In section ML 2(1), “1 October 2010” is replaced by “1 April 2011”, in each place where it appears.

New clauses 67B to 67F

To insert, after *clause 67* (after line 24 on page 51), the following:

67B New section OZ 7B inserted

After section OZ 7, the following is inserted:

“OZ 7B Maori authority credit ratios for transitional period

“When this section applies

“(1) This section applies when a Maori authority makes a taxable Maori authority distribution in the transitional period referred to in section OZ 7.

“Application of modified sections OZ 8 to OZ 15

“(2) Sections OZ 8 to OZ 11 and OZ 13 apply for the transitional period to the Maori authority and the taxable Maori authority distribution as if,—

“(a) for each section,—

“(i) a reference to a company had been replaced by a reference to a Maori authority:

“(ii) a reference to a dividend had been replaced by a reference to a taxable Maori authority distribution:

“(iii) a reference to an imputation credit account had been replaced by a reference to a Maori authority credit account:

“(iv) a reference to an imputation credit had been replaced by a reference to a Maori authority credit:

“(v) a reference to a benchmark dividend had been replaced by a reference to a benchmark distribution:

- “(vi) a reference to an imputation ratio had been replaced by a reference to a Maori authority credit ratio:
- “(vii) a reference to an FDP account or FDP credit or FDP ratio had been omitted:
- “(b) in section OZ 8(2), the reference to 30% had been replaced by a reference to 19.5%:
- “(c) in section OZ 9,—
 - “(i) in subsection (1)(b), the reference to sections OB 61(4) and OC 28(4) had been replaced by a reference to section OK 20(3):
 - “(ii) in subsection (1)(c)(ii), the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:
 - “(iii) in subsection (3)(b), the reference to a ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5:
- “(d) in section OZ 10,—
 - “(i) in subsection (1)(b), a reference to a ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5 and a reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:
 - “(ii) subsection (1)(b)(ii) and (iii) were omitted:
 - “(iii) in subsection (2), the reference to sections LE 8, LE 9, LF 6, and LF 7 had been replaced by a reference to section LO 3:
 - “(iv) in subsection (2), the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:
- “(e) in section OZ 11,—
 - “(i) in subsection (1)(b)(i), the reference to a ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5 and the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:
 - “(ii) subsection (1)(b)(ii) and (iii) had been omitted:
 - “(iii) in subsection (1)(c), a reference to a new company tax rate person had been replaced by a reference to a Maori authority that uses a 17.5% basic tax rate for the 2011–12 income year or later income years:
 - “(iv) in subsection (2), in the formula, the figure 0.28 had been replaced by the figure 17.5:

“(v) in subsection (3), the reference to section LE 1(1) or LF 1(1) had been replaced by a reference to section LO 1(1):

“(vi) subsections (4) and (5) had been omitted:

“(f) in section OZ 13,—

“(i) in subsection (1), the reference to the ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5 and the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:

“(ii) in subsection (2), the reference to the ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5.

“Defined in this Act: benchmark distribution, income year, Maori authority, Maori authority credit, Maori authority credit account, Maori authority credit ratio, taxable Maori authority distribution”.

67C Methods for calculating provisional tax liability

In section RC 5(4), “Section RZ 3 (Standard method: 2010–11 to 2012–13 income years) modifies” is replaced by “Sections RZ 3 (Standard method: 2010–11 to 2012–13 income years) and **RZ 5D** (Standard method or GST method: transition for Maori authorities) modify”.

67D GST ratio method

In section RC 8(9), “Section RZ 4 (GST ratio method: 2010–11 to 2013–14 income years) modifies” is replaced by “Sections RZ 4 (GST ratio method: 2010–11 to 2013–14 income years) and **RZ 5D** (Standard method or GST method: transition for Maori authorities) modify”.

67E Calculating amount of instalment under standard and estimation methods

In section RC 10(3)(a),—

(a) in subparagraph (i), “section RZ 5 (Calculating amounts under standard method: 2010–11 to 2012–13 income years)” is replaced by “sections RZ 5 (Calculating amounts under standard method: 2010–11 to 2012–13 income years) and **RZ 5D** (Standard method or GST method: transition for Maori authorities)”:

(b) in subparagraph (ii), “section RZ 5” is replaced by “sections RZ 5 and **RZ 5D**”.

67F Calculating amount of instalment using GST ratio

In section RC 11(4), “Section RZ 4 (GST ratio method: 2010–11 to 2013–14 income years) modifies” is replaced by “Sections RZ 4 (GST ratio method: 2010–11 to 2013–14 income years) and **RZ 5D** (Standard method or GST method: transition for Maori authorities) modify”.

Clause 69

New subclause (1B): to insert, after *subclause (1)* (after line 32 on page 51), the following:

(1B) After section RD 5(3), the following is inserted:

“Payments to working owners

“(3B) A payment to a working owner under **section DC 3B** (Payments to working owners) is included in their salary or wages.”

New subclause (3): to insert, after *subclause (2)* (after line 2 on page 52), the following:

(3) **Subsection (1B)** applies for income years beginning on or after 1 April 2011.

New clause 73B

To insert, after *clause 73* (after line 14 on page 53), the following:

73B New section RZ 5D inserted

Before the heading before section RZ 6, the following is inserted:

“RZ 5D Standard method or GST method: transition for Maori authorities

“When this section applies

“(1) This section applies when the provisional tax liability of a Maori authority is calculated for the 2011–12 and 2012–13 income years (the **transitional period**).

“Application of modified sections RZ 3 to RZ 5

“(2) Sections RZ 3 to RZ 5 apply for the transitional period to the Maori authority and the Maori authority’s provisional tax liability as if—

“(a) the Maori authority were a new company tax rate person:

“(b) in section RZ 3,—

“(i) in subsection (2)(b)(ii), 100% had been replaced by 95%:

“(ii) in subsection (3)(b)(ii), 105% had been replaced by 100%:

“(iii) in subsection (3)(c)(ii), 105% had been replaced by 100%:

“(c) in section RZ 4,—

- “(i) in subsection (2)(d), 0.95 had been replaced by 0.9 in each place where it appears:
- “(ii) in subsection (2)(e), 0.95 had been replaced by 0.9 in each place where it appears:
- “(d) in section RZ 5,—
 - “(i) in subsection (2)(b)(ii), a reference to no uplift had been replaced by a reference to a 5% reduction:
 - “(ii) in subsection (3)(b)(ii), a reference to a 5% uplift had been replaced by a reference to no uplift:
 - “(iii) in subsection (3)(c)(ii), a reference to a 5% uplift had been replaced by a reference to no uplift.

“Defined in this Act: Maori authority, new company rate person, provisional tax liability”.

Clause 74

New subclause (1B): to insert, after *subclause (1)* (after line 16 on page 53), the following:

- (1B) The following is inserted in its appropriate alphabetical order:
- “**beneficial interest** includes an interest that is contingent, discretionary or unvested”.

New subclauses (2BA) to (2BAE): to insert, after *subclause (2)* (after line 19 on page 53), the following:

- (2BA) The definition of **building** is replaced by the following:
- “**building**, in subparts EE and EZ, does not include—
- “(a) a grandparented structure:
 - “(b) commercial fit-out”.
- (2BAB) The following is inserted in its appropriate alphabetical order:
- “**commercial building** means a building that is not, in part or in whole, a dwelling, unless use as a dwelling is a secondary and minor use”.
- (2BAC) The following is inserted in its appropriate alphabetical order:
- “**commercial fit-out** means an item to the extent to which it is—
- “(a) plant attached to a commercial building, but not used inside a dwelling within the commercial building:
 - “(b) attached to, and non-structural in relation to, a building, if the item is not used for weatherproofing the building and—
 - “(i) is not used in relation to, and is not part of, a dwelling within the building; or
 - “(ii) is used in relation to, but is not part of, a dwelling within the building, and the building is a commercial building”.

(2BAD) In the definition of **company**, after paragraph (ab), the following is inserted:

“(abb) does not include a look-through company, except in the PAYE rules, the FBT rules, the NRWT rules, the RWT rules, the ESCT rules, the RSCT rules, and for the purposes of subpart FO (Amalgamation of companies):”.

(2BAE) The following is inserted in its appropriate alphabetical order:

“**contract of employment** is defined in **section DC 3B(3)** (Payments to working owners) for the purposes of that section and the definition of **working owner**”.

New subclauses (3B) and (3C): to insert, after *subclause (3)* (after line 6 on page 54), the following:

(3B) The following is inserted in its appropriate alphabetical order:

“**dwelling**—

“(a) means any place used predominantly as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place; but

“(b) does not include any of the following:

“(i) a hospital:

“(ii) a hotel, motel, inn, hostel, or boardinghouse:

“(iii) a serviced apartment for which paid services in addition to the supply of accommodation are provided to a resident, and in relation to which a resident does not have quiet enjoyment, as that term is used in section 38 of the Residential Tenancies Act 1986:

“(iv) a convalescent home, nursing home, or hospice:

“(v) a rest home or retirement village, except to the extent that, in relation to a relevant place, it is, or can reasonably be foreseen to be, occupied as a person’s principal place of residence for independent living:

“(vi) a camping ground”.

(3C) The following is inserted in its appropriate alphabetical order:

“**effective look-through interest** is defined in **section HB 1(5)** (Look-through companies are transparent)”.

New subclauses (4BA) to (4BAC): to insert, after *subclause (4)* (after line 14 on page 54), the following:

(4BA) In the definition of **employee**, after paragraph (d), the following is inserted:

“(db) does not include an owner of a look-through company or a person who has a look-through interest for a look-

through company, unless the owner or person is a working owner.”.

(4BAB) In the definition of **employer**, after paragraph (b)(ii), the following is inserted:

“(iib) a look-through company, to the extent that **paragraph (db)** of the definition of **employee** does not apply.”.

(4BAC) The following is inserted in its appropriate alphabetical order:

“**entering owner**—

“(a) means a person who acquires an owner’s interests for a look-through company:

“(b) includes a person who already has owner’s interests for a look-through company when they acquire another owner’s interests”.

New subclause (5B): to insert, after *subclause (5)* (after line 31 on page 54), the following:

(5B) The following is inserted in its appropriate alphabetical order:

“**grandparenting income year** is defined in **section HA 5(5)** (Elections to become qualifying company)”.

New subclause (6BA): to insert, after *subclause (6)* (after line 33 on page 54), the following:

(6BA) The following is inserted in its appropriate alphabetical order:

“**independent living** means occupancy of a place under an arrangement that—

“(a) does not have a level of compulsory care:

“(b) has a level of compulsory care that is merely incidental to the occupancy”.

New subclauses (6C) to (6H): to insert, after *subclause (6B)* (after line 10 on page 55), the following:

(6C) The definition of **LAQC** is repealed.

(6D) The following is inserted in its appropriate alphabetical order:

“**look-through company** means an entity—

“(a) that is described in paragraph (a) of the definition of **company**; and

“(b) that, treating the entity as a company for the purposes of this definition, is resident in New Zealand under section YD 2 (Residence of companies); and

“(c) that is not treated under, or for the purposes of, a double tax agreement as not resident in New Zealand; and

“(d) for which there are 5 or fewer look-through counted owners, treating look-through counted owners who are relatives, ignoring any later death or dissolution of marriage, union, or relationship, as 1 person; and

- “(e) for which all owners have only look-through interests;
and
 - “(f) that is not a flat-owning company; and
 - “(g) for which an election under **section HB 13** (Valid elections) has been received by the Commissioner”.
- (6E) The following is inserted in its appropriate alphabetical order:
“**look-through company deduction** is defined in section HB 11(12) (Limitation on deductions by persons with interests in look-through companies)”.
- (6F) The following is inserted in its appropriate alphabetical order:
“**look-through counted owner** means, for an entity, a person who—
- “(a) is a natural person that—
 - “(i) is not a trustee; and
 - “(ii) has a look-through interest for the entity;
 - “(b) is a natural person who has derived, as beneficiary income of a trust, income that arose from a direct or indirect beneficial interest in a look-through interest for the entity for the current income year or 1 of the last 3 income years:
 - “(c) is a trustee of a trust that—
 - “(i) has a look-through interest for the entity or that has a direct or indirect beneficial interest in a look-through interest for the entity, treating co-trustees as 1 person; and
 - “(ii) has not distributed, as beneficiary income, all income that arose from a direct or indirect beneficial interest in a look-through interest for the entity for the current income year and all of the last 3 income years;
 - “(d) is a natural person that has a voting interest or a market value interest in relation to a company that has derived, as beneficiary income from a trust, income that arose from a direct or indirect beneficial interest in a look-through interest for the entity for the current income year or 1 of the last 3 income years”.
- (6G) The following is inserted in its appropriate alphabetical order:
“**look-through interest** means a person’s shares in an entity, or in a look-through company (**LTC**) treating the look-through company as a company for the purposes of this definition, if—
- “(a) every other shareholder in the entity or LTC has the same rights, proportionally, as the person to vote or participate in any decision-making concerning—
 - “(i) the distributions to be made by the entity or LTC;
and
 - “(ii) the entity’s or LTC’s constitution; and

- “(iii) varying the capital of the entity or LTC; and
 - “(iv) appointing or electing directors of the entity or LTC; and
 - “(b) every other shareholder has the same rights, proportionally, as the person in relation to when the entity or LTC distributes its profits or its assets if the entity or LTC acquires, redeems, or cancels its shares, or reduces or returns its share capital, whether on liquidation or not; and
 - “(c) the entity or LTC has only shareholders that are natural persons, or corporate trustees”.
- (6H) The definition of **loss-attributing qualifying company** is repealed.

New subclauses (7BA) and (7BAB): to insert, after *subclause (7)* (after line 13 on page 55), the following:

- (7BA) The following is inserted in its appropriate alphabetical order:
- “**non-resident seasonal worker** means a non-resident worker employed under the recognised seasonal employment scheme to undertake work in New Zealand”.
- (7BAB) The definition of **non-resident seasonal worker** inserted by **subsection (7BA)** is repealed.

New subclauses (7BB) and (7BC): to insert, after *subclause (7B)* (after line 18 on page 55), the following:

- (7BB) The following is inserted in its appropriate alphabetical order:
- “**owner’s interests** means the relevant interests in rights and obligations and other property, status, and things that a person who has an effective look-through interest for a look-through company has as a result of applying **section HB 1** (Look-through companies are transparent) or otherwise”.
- (7BC) The following is inserted in its appropriate alphabetical order:
- “**plant** does not include an item that is structural in relation to a building”.

New subclauses (7D) to (7J): to insert, after *subclause (7C)* (after line 28 on page 55), the following:

- (7D) In the definition of **property**, after paragraph (a), the following is inserted:
- “(ab) in subpart FB (Transfers of relationship property), is defined in **section FB 1(4)** (What this subpart does):
 - “(ac) in subpart FC (Distribution, transmission, and gifts of property), is defined in **section FC 1(2)** (What this subpart does):”.
- (7E) The following is inserted in its appropriate alphabetical order:
- “**QCP transitional process** is defined in **section HZ 4B(7)** (Qualifying companies: transition into partnership)”.

- (7F) The following is inserted in its appropriate alphabetical order:
“**QCST transitional process** is defined in **section HZ 4D(4)** (Qualifying companies: transition into sole traderships)”.
- (7G) In the definition of **residual income tax**, after paragraph (b)(iiib), the following is inserted:
“(iiic) section LC 13 (Tax credits for independent earners):”.
- (7H) The definition of **secured amounts** is replaced by the following:
“**secured amounts**—
“(a) is defined in **section HB 11(12)** (Limitation on deductions by persons with interests in look-through companies) for the purposes of that section:
“(b) is defined in section HG 11(12) (Limitation on deductions by partners in limited partnerships) for the purposes of that section”.
- (7I) In the definition of **settlor**, “**section MB 7** (Family scheme income of settlor of trust),” is inserted after “Niue,”.
- (7J) In the definition of **shareholder-employee**, in paragraph (b)(ii), “applies” is replaced by “applies:” and the following is added:
“(c) does not include an owner of a look-through company or a person who has a look-through interest for a look-through company”.

New clauses (8B) and (8C): to insert, after *subclause (8)* (after line 31 on page 55), the following:

- (8B) The following is inserted in its appropriate alphabetic order:
“**tax position** means, for the purposes of **sections HZ 4B and HZ 4D** (which relate to the transition of a qualifying company into a partnership or sole tradership), a status, right, obligation, liability, asset, or other thing authorised or arising under, required or imposed by, or necessary to comply with an Inland Revenue Act, and includes tax assets and accounting positions in relation to an Inland Revenue Act, and debts payable to the Commissioner”.
- (8C) The following is inserted in its appropriate alphabetic order:
“**transfer** means, for the purposes of **sections HZ 4B and HZ 4D** (which relate to the transition of a qualifying company into a partnership or sole tradership), a sale, purchase, disposal, acquisition, cessation, assumption, discharge, assignment, vesting, divesting, gift, supply, or other transfer in relation to liabilities and assets, and associated legal rights and obligations”.

New clauses (9B) and (10A): to insert, after *subclause (9)* (after line 33 on page 55), the following:

- (9B) The following is inserted in its appropriate alphabetic order:
- “**working owner** means a person who, in relation to a look-through company that is not wholly or mainly engaged in investing money or in holding, or dealing in, shares, securities, investments, or estates or interests in land, ignoring **section HB 1** (Look-through companies are transparent),—
- “(a) is an owner of the look-through company; and
- “(b) personally and actively performs duties that—
- “(i) are required to be performed in carrying on the business of the look-through company; and
- “(ii) are performed by the person during the currency of, and as required by, a contract of employment”.
- (10A) **Subsections (1B), (2BAD), (2BAE), (3C), (4BA), (4BAB), (4BAC), (6C), (6D), (6E), (6F), (6G), (6H), (7BB), (7D), (7E), (7F), (7H), (7I), (7J), (8B), (8C), and (9B)** apply for income years beginning on or after 1 April 2011.

New clause (10BA): to insert, after *subclause (10)* (after line 35 on page 55), the following:

- (10BA) **Subsections (2BA), (2BAB), (2BAC), (3B), (6BA), and (7BC)** apply for the 2011–12 and later income years.

New clauses 74C to 74G

To insert, after *clause 74B* (after line 21 on page 56), the following:

74C New section YB 13 inserted

- (1) After section YB 12, the following is inserted:

“YB 13 Look-through companies and owners of interests

“Association

- “(1) A look-through company and a person who has a look-through interest for the look-through company (an **owner**) and who is a director or employee for the look-through company are associated persons.

“Some owners

- “(2) If **subsection (1)** does not apply to a look-through company and an owner, then they are associated persons if the owner has effective look-through interests of 25% or more in a right, obligation, or other property status, or thing of the look-through company.

“Some owners: general aggregation rule

- “(3) For the purposes of **subsection (2)**, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 2 to YB 11 and YB 14, person A is treated as holding anything held by person B.

“Some owners: aggregation rule for land provisions

- “(4) For the purposes of **subsection (2)**, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 2, YB 3, YB 4(1)(b) and (2) to (4), YB 7, YB 8, YB 10, YB 11, and YB 14, person A is treated as holding anything held by person B.

“Defined in this Act: associated person, director, effective look-through interest, employee, look-through company, look-through interest”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

74D Tripartite relationship

- (1) In section YB 14(1),—
(a) in paragraph (a), “YB 12” is replaced by “**YB 13**”;
(b) in paragraph (b), “YB 12” is replaced by “**YB 13**”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

74E Schedule 1—Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits

- (1) In schedule 1, part A, clause 7, “0.195” is replaced by “0.175”.
- (2) In schedule 1, part D, table 4, row 1, “0.195” is replaced by “0.175”.

74F Schedule 2—Basic tax rates for PAYE income payments

- (1) In schedule 2, part A, clause 8, “the rate of 0.15” is replaced by “the rate of 0.105”.
- (2) **Subsection (1)** applies for the 2011–12 and later income years.

74G Schedule 29—Portfolio investment entities: listed investors

In schedule 29, part A, item 7, “Auckland Regional Holdings” is replaced by “Auckland Council”.

New clause 75B

To insert, after *clause 75* (after line 4 on page 57), the following

75B New schedule 38 inserted

After schedule 37, the schedule included in schedule 2 of this Act is inserted.

Clause 77

To replace “**86**” (line 16 on page 57) with “**86B**”.

New clause 78B

To insert, after *clause 78* (after line 2 on page 58), the following:

78B Notification requirements for multi-rate PIEs

Section 31C (3) and (4) are replaced by the following:

- “(3) For an investor not referred to in subsection (2) who invests in a PIE that calculates and pays tax using the provisional tax calculation option under section HM 44 of that Act, the PIE must notify the investor—
- “(a) by 31 May after the end of the tax year, if the PIE is not a superannuation fund or retirement savings scheme and has an income year ending before 31 May; or
- “(b) by 30 June after the end of the tax year, if the PIE is a superannuation fund or retirement savings scheme and has an income year ending before 30 June; or
- “(c) within 2 months after the end of the PIE’s income year, if neither of **paragraphs (a) and (b)** applies.
- “(4) For an investor not referred to in subsections (2) and (3) who invests in a PIE that calculates and pays tax using the quarterly or exit calculation options under sections HM 42 and HM 43 of that Act, the PIE must notify the investor—
- “(a) by 31 May after the end of the tax year, if the PIE is not a superannuation fund or retirement savings scheme; or
- “(b) by 30 June after the end of the tax year, if the PIE is a superannuation fund or retirement savings scheme.”

Clause 79B

New subclauses (1A) and (1AB): to insert, after the heading (after line 30 on page 58), the following:

(1A) Section 33A(1)(b)(ixb) is repealed.

(1AB) Section 33A(1)(b)(ixc) is repealed.

New subclauses (1B) to (1D): to insert, after *subclause (1)* (after line 32 on page 58), the following:

(1B) Section 33A(1)(j) is repealed.

(1C) After section 33A(1), the following is inserted:

“(1B) A natural person is not required to furnish a return of income for a tax year and will not receive an income statement from the Commissioner for the year if, in the corresponding income year, the person is a non-resident seasonal worker employed under the recognised seasonal employment scheme.”

(1D) Section 33A(2)(a) is replaced by the following:

“(a) is a non-resident; or”

New subclauses (3) and (4): to add, after *subclause (2)* (after 34 on page 58), the following:

- (3) **Subsections (1A) and (1D)** apply for the 2009–10 and later income years.

- (4) **Subsections (1A), (1B), and (1C)** apply for the 2008–09 and later income years.

New clauses 80B and 80C

To insert, after *clause 80* (before line 5 on page 59), the following:

80B New section 42B inserted

After section 42, the following is inserted:

“42B Returns by look-through companies and owners of interests

- “(1) This section applies to persons who have effective look-through interests for a look-through company, and to their look-through company.
- “(2) The company must make a return of income that ignores **sub-part HB** of the Income Tax Act 2007 and that includes—
- “(a) the total amount of income derived by the company;
- “(b) the amount of that income for each owner under **sub-part HB** of that Act;
- “(c) a summary of the deductions for each owner under **sub-part HB and section DV 22** of that Act.
- “(3) There is no assessment of the company, but each owner must make a separate return of income under section 33 taking into account the amounts in **subsection (2)**. Each owner is assessed separately.”

80C Return requirements for multi-rate PIEs

Section 57B(7)(a) is replaced by the following:

- “(a) by the 31 May after the end of the tax year if—
- “(i) the PIE has a corresponding income year that does not end after the end of the tax year; and
- “(ii) the PIE is not a superannuation fund or retirement savings scheme; and
- “(iii) the PIE continues to meet the requirements for PIE status at the end of the corresponding income year; or
- “(ab) by the 30 June after the end of the tax year if—
- “(i) the PIE has a corresponding income year that does not end after the end of the tax year; and
- “(ii) the PIE is a superannuation fund or retirement savings scheme; and
- “(iii) the PIE continues to meet the requirements for PIE status at the end of the corresponding income year; or”.

New clauses 82B to 82E

To insert, after *clause 82* (after line 14 on page 59), the following:

82B Notices of proposed adjustment required to be issued by Commissioner

After section 89C(k), the following is inserted:

“(ka) the assessment corrects a tax position taken by the taxpayer in relation to a tax position taken by a look-through company in a return of income under **section 42B**, and the Commissioner and the company have completed the disputes process for that return of income and that tax position; or”.

82C Taxpayers and others with standing may issue notices of proposed adjustment

In section 89D(1), in the words after the paragraphs, “assessment” is replaced by “assessment except to the extent to which the assessment takes into account amounts arising under **subpart HB** of the Income Tax Act 2007”.

82D Taxpayer may issue notice of proposed adjustment for taxpayer assessment

(1) In section 89DA(1), “if the Commissioner has not previously issued a notice of proposed adjustment to the taxpayer in respect of the assessment” is replaced by “except,—”, and the following is added:

“(a) to the extent to which the assessment takes into account amounts arising under **subpart HB** of the Income Tax Act 2007:

“(b) if the Commissioner has previously issued a notice of proposed adjustment to the taxpayer in respect of the assessment.”

(2) After section 89DA(3), the following is added:

“(4) A look-through company may issue a notice of proposed adjustment in respect of a return it makes under **section 42B** for a tax year if the Commissioner has not previously issued a notice of proposed adjustment to the taxpayer in respect of the return. For the purposes of section 89AB(3), the return is treated as a notice of assessment.”

82E When disputant entitled to challenge assessment

(1) In section 138B(1)(a), “the disputant” is replaced by “the disputant or their look-through company”.

(2) In section 138B(3)(a), “the disputant” is replaced by “the disputant or their look-through company”.

New clauses 83B and 83C

To insert, after *clause 83* (after line 19 on page 59), the following:

83B Late payment penalty

- (1) In section 139B(1)(b), “penalty” is replaced by “penalty or interest”.
- (2) In section 139B(1)(c), “penalty” is replaced by “penalty or interest”.

83C Unacceptable tax position

- (1) After section 141B(8)(a)(i), the following is inserted:
“(ib) a look-through company; or”.
- (2) In section 141B(8)(a), in the words after the subparagraphs, “partnership” is replaced by “partnership, effective look-through interest holder for the look-through company,”.
- (3) In section 141B(8)(b), “partnership” is replaced by “partnership or a look-through company”.

New clause 86B

To insert, after *clause 86* (after line 16 on page 60), the following:

86B New section 225C inserted

After section 225B, the following is inserted:

“225C Order in Council amending schedule 38 of Income Tax Act 2007

The Governor-General may, from time to time, by Order in Council, amend schedule 38 of the Income Tax Act 2007 by—

- “(a) adding a statute, if the statute provides for an exemption from income tax, for salary or wages, that is to be ignored in determining the family scheme income of a person for an income year:
- “(b) removing a statute.”

Clause 94

To replace “**95**” (line 6 on page 64) with “**94B**”.

New clause 94B

To insert, after *clause 94* (after line 6 on page 64), the following:

94B Automatic enrolment rules do not apply

After section 14(1)(a)(ii), the following is inserted:

- “(iib) **section RD 5(3B)** (which relates to payments to working owners):”.

New schedule 2

To add, after the *schedule* (on page 72), the following:

Schedule 2 **s 75B**
New schedule 38

Schedule 38 **s MB 1**
**Acts exempting income from tax: income
included in family scheme income**

- 1 Arbitration (International Investment Disputes) Act 1979
- 2 Consular Privileges and Immunities Act 1971
- 3 Diplomatic Privileges and Immunities Act 1968
- 4 International Finance Agreements Act 1961
- 5 Pitcairn Trials Act 2002

Explanatory note

This Supplementary Order Paper changes the *Taxation (GST and Remedial Matters) Bill*. The changes mainly arise from the Budget 2010 tax measure reforms. They concern amendments in the bill to the *Goods and Services Tax Act 1985*, the *Income Tax Act 2007*, and the *Tax Administration Act 1994*. A significant number of changes relate to the introduction of look-through companies, the abolition of loss-attributing qualifying companies, and the transition of existing qualifying companies to other forms. A number of other changes relate to the calculation of family scheme income for the purposes of various social assistance programmes.

Changes to *clause 2* provide for the commencement dates of inserted clauses.

New clause 10(1BA) replaces *section 11(1)(o) of the Goods and Services Tax Act 1985* to correct an error in the description of a supply of goods that is zero-rated when made as part of certain transactions relating to the supply of emissions units.

New clause 10B replaces *section 11A(1)(u) of the Goods and Services Tax Act 1985* to correct an error in the description of a supply of services that is zero-rated when made as part of certain transactions relating to the supply of emissions units.

New clause 19B amends the *second proviso to section 78(3) of the Goods and Services Tax Act 1985* so that the subsection applies to fees and charges set under an Act or regulation and payable by a public authority to another public authority.

New clause 19C amends *section 78AA of the Goods and Services Tax Act 1985* to correct an error in the description of the supplies to which *subsection (5)* applies and to correct a cross reference.

New clause 21B inserts *new sections CB 32B and CB 32C of the Income Tax Act 2007*, which give the income from look-through companies for holders of

effective look-through interests and provide that untaxed retained earnings of a company are taxable income when the company becomes a look-through company.

New clause 23B amends *section CD 43 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 28B amends *section CX 47 of the Income Tax Act 2007* so that the section applies correctly to research and development grants and vouchers. A *new subsection (4)* is inserted so that the application of the section to a person is optional in some situations.

New clause 28C adds *new section CX 63 of the Income Tax Act 2007*, which provides for dividends received by a person from a company after it ceases to be a look-through company.

New clause 30BA adds *new section DB 65 of the Income Tax Act 2007*, under which the owner of a building has a deduction for a commercial fit-out that has not been separately depreciated.

New clause 30BAB inserts *new section DC 3B of the Income Tax Act 2007*, which provides for the treatment of payments made by a look-through company to an owner who is an employee of the company.

New clause 30C amends *section DF 1 of the Income Tax Act 2007* so that the section applies correctly to the new research and development grants and vouchers announced in Budget 2010.

New clause 32B adds *new sections DV 21 to DV 24 of the Income Tax Act 2007*. *New section DV 21* provides for the treatment of losses of a qualifying company replaced by a partnership. *New section DV 22* provides for deductions from a look-through company for a holder of an effective look-through interest in the company. *New section DV 23* provides for the treatment of losses of a qualifying company that becomes a look-through company. *New section DV 24* provides for the treatment of losses of a qualifying company replaced by a sole trader-ership.

New clause 32C amends *section EC 12 of the Income Tax Act 2007*, consequential to the introduction of look-through companies

New clause 34B amends *section EE 31 of the Income Tax Act 2007* to change the transitional provisions for the recent changes to the depreciation of buildings.

New clause 34C amends *section EE 37 of the Income Tax Act 2007*, consequential to the changes to *section EE 31*.

New clause 34D amends *section EE 44 of the Income Tax Act 2007*, consequential to the changes to *section EE 45*.

New clause 34E amends *section EE 45 of the Income Tax Act 2007*, to provide that costs of a person in a disposal of depreciable property are taken into account in determining the net amount that the person receives in the disposal.

New clause 34F amends *section EE 47 of the Income Tax Act 2007*, consequential to *new section DB 65*.

New clause 36B: inserts *section EW 5(3D) of the Income Tax Act 2007* to provide that an agreement between a public authority and a person for a payment by the

public authority under a technology development grant or a technology transfer voucher is an excluded financial arrangement for the person; and inserts *section EW 5(11B)* to provide that a look-through interest for a look-through company is an excluded financial arrangement.

New clause 38B amends *section FB 1 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 38C inserts *new section FB 10B of the Income Tax Act 2007*, which provides for the transfer of a look-through interest for a look-through company under a settlement of relationship property.

New clause 38D amends *section FC 1 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 41B amends *section GB 23 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 41C inserts *new section GB 25B of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 41D amends *section GB 29 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 41E amends *section HA 1 of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41F repeals *section HA 3 of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41G amends *section HA 5 of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41H inserts *new section HA 7B of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41I repeals *sections HA 10, HA 11(4), and HA 20, a heading, and sections HA 24 to HA 27 of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41J amends *section HA 30 of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41K inserts *new section HA 33B of the Income Tax Act 2007*, which provides rules for the transition of qualifying companies to other forms.

New clause 41L repeals *a heading and sections HA 38 and HA 39 of the Income Tax Act 2007*, consequential to the abolition of loss-attributing qualifying companies.

New clause 41M inserts *new subpart HB of the Income Tax Act 2007*. *New sections HB 1 to HB 13* provide for the treatment of look-through companies and of the owners of effective look-through interests for a look-through company.

New clause 41N amends *section HC 27 of the Income Tax Act 2007* to insert a cross reference related to the calculation of family scheme income.

New clause 42BA amends *section HG 11 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 42BAB amends *section HG 12 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 47C amends section HM 22 of the Income Tax Act 2007 so that the section applies to foreign PIE equivalents as well as PIEs.

New clause 51B reenacts section HM 37(3) of the Income Tax Act 2007, relating to fund withdrawal tax, for 2 further years from 1 April 2011 to 1 April 2013.

New clause 57BA inserts new sections HZ 4B to HZ 4D of the Income Tax Act 2007, providing for the transition of qualifying companies to other forms.

New clause 62B amends section MB 1 of the Income Tax Act 2007, which relates to the calculation of family scheme income for the purposes of various social assistance programmes.

New clause 62C inserts new sections MB 7 to MB 13 of the Income Tax Act 2007, which include various amounts in a person's family scheme income.

New clause 64C amends section ML 2 of the Income Tax Act 2007, extending the availability of the tax credit for redundancy payments from 1 October 2010 to 1 April 2011.

New clause 67B inserts new section OZ 7B of the Income Tax Act 2007, providing for the attachment of Maori authority credits to a taxable Maori authority distribution in the 2-year period after the change in the basic tax rate for a Maori authority.

New clauses 67C to 67F amend sections RC 5, RC 8, RC 10, and RC 11 of the Income Tax Act 2007 by inserting references to new section RZ 5D.

In clause 69, new subclause (1B) inserts new section RD 5(3B) of the Income Tax Act 2007, consequential to the introduction of look-through companies.

New clause 73B inserts new section RZ 5D of the Income Tax Act 2007, providing for the calculation of the provisional tax liability of a Maori authority in the 2-year period after the change in the basic tax rate for a Maori authority.

*In clause 74, which amends section YA 1 of the Income Tax Act 2007: new subclause (1B) inserts a definition of *beneficial interest*, as part of the amendments introducing look-through companies; new subclause (2BA) replaces the definition of *building*, excluding a commercial fit-out from the term; new subclause (2BAB) inserts a definition of *commercial building* as part of the amendments introducing depreciation of commercial fit-out items; new subclause (2BAC) inserts a definition of *commercial fit-out*, as part of the amendments introducing depreciation of commercial fit-out items; new subclause (2BAD) amends the definition of *company*, as part of the amendments introducing look-through companies; new subclause (2BAE) inserts a definition of *contract of employment*, as part of the amendments introducing look-through companies; new subclause (3B) inserts a definition of *dwelling*, as part of the amendments introducing depreciation of commercial fit-out items; new subclause (3C) inserts a definition of *effective look-through interest*, as part of the amendments introducing look-through companies; new subclause (4BA) amends the definition of *employee*, as part of the amendments introducing look-through companies; new subclause (4BAB) amends the definition of *employer*, as part of the amendments introducing look-through companies; new subclause (4BAC) inserts a definition of *entering owner*, as part of the amendments introducing look-through companies; new subclause (5B) inserts a definition of *grandparenting income year*,*

as part of the abolition of loss-attributing qualifying companies; *new subclause (6BA)* inserts a definition of *independent living*, as part of the amendments introducing depreciation of commercial fit-out items; *new subclause (6C)* repeals the definition of *LAQC*, consequential to the abolition of loss-attributing qualifying companies; *new subclause (6D)* inserts a definition of *look-through company*, as part of the amendments introducing look-through companies; *new subclause (6E)* inserts a definition of *look-through company deduction*, as part of the amendments introducing look-through companies; *new subclause (6F)* inserts a definition of *look-through counted owner*, as part of the amendments introducing look-through companies; *new subclause (6G)* inserts a definition of *look-through interest*, as part of the amendments introducing look-through companies; *new subclause (6H)* repeals the definition of *loss-attributing qualifying company*, as part of the abolition of loss-attributing qualifying companies; *new subclause 7BA* inserts a copy of an existing definition of *non-resident seasonal worker* to be treated as coming into effect on 1 April 2008, earlier than the date for the existing definition; *new subclause (7BAB)* repeals the inserted definition of *non-resident seasonal worker* on 6 October 2009, to avoid duplication of the definition; *new subclause (7BB)* inserts a definition of *owner's interests*, as part of the amendments introducing look-through companies; *new subclause (7BC)* inserts a definition of *plant*, as part of the amendments introducing depreciation of commercial fit-out items; *new subclause (7D)* amends the definition of *property*, as part of the amendments introducing look-through companies; *new subclause (7E)* inserts a definition of *QCP transitional process*, providing for the transition of qualifying companies to other forms; *new subclause (7F)* inserts a definition of *QCST transitional process*, providing for the transition of qualifying companies to other forms; *new subclause (7G)* amends the definition of *residual income tax* by adding tax credits for independent earners to the list of credits subtracted from a person's income tax liability; *new subclause (7H)* replaces the definition of *secured amounts*, as part of the amendments introducing look-through companies; *new subclause (7I)* amends the definition of *settlor* by inserting a cross-reference; *new subclause (7J)* amends the definition of *shareholder-employee*, as part of the amendments introducing look-through companies; *new subclause (8B)* inserts a definition of *tax position*, as part of the abolition of loss-attributing qualifying companies; *new subclause (8C)* inserts a definition of *transfer*, as part of the abolition of loss-attributing qualifying companies; *new subclause (9B)* inserts a definition of *working owner*, as part of the amendments introducing look-through companies; *new subclause (10A)* provides for the application of the subclauses relating to the abolition of loss-attributing qualifying companies and the introduction of look-through companies; *new subclause (10BA)* provides for the application of the subclauses relating to the depreciation of commercial fit-out items.

New clause 74C inserts *new section YB 13 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 74D amends *section YB 14 of the Income Tax Act 2007*, consequential to the introduction of look-through companies.

New clause 74E amends schedule 1 of the Income Tax Act 2007, reducing the basic tax rate, and basic rate for RWT, of a Maori authority to 17.5%.

New clause 74F amends schedule 2 of the Income Tax Act 2007, reducing the basic rate of PAYE for non-resident seasonal workers to 10.5%.

New clause 74G amends schedule 29 of the Income Tax Act 2007, consequential to the creation of the Auckland Council.

New clause 75B inserts new schedule 38 of the Income Tax Act 2007, containing a list of statutes. Amounts that are exempt income under a listed statute will be included in family scheme income.

New clause 78B amends section 31C of the Tax Administration Act 1994, relating to the timing of notices that PIEs are required to give to investors, as a result of the changes in the calculation of family scheme income.

In clause 79B, further amendments to section 33A of the Tax Administration Act 1994 are inserted, so that a non-resident seasonal worker does not have to furnish an annual return of income.

New clause 80B inserts new section 42B of the Tax Administration Act 1994, consequential to the introduction of look-through companies.

New clause 80C amends section 57B of the Tax Administration Act 1994, relating to the timing of tax returns by PIEs for investors, as a result of the changes in the calculation of family scheme income.

New clause 82B amends section 89C of the Tax Administration Act 1994, consequential to the introduction of look-through companies.

New clause 82C amends section 89D of the Tax Administration Act 1994, consequential to the introduction of look-through companies.

New clause 82D amends section 89DA of the Tax Administration Act 1994, consequential to the introduction of look-through companies.

New clause 82E amends section 138B of the Tax Administration Act 1994, consequential to the introduction of look-through companies.

New clause 83B amends section 139B of the Tax Administration Act 1994 so that remissions of interest are taken into account.

New clause 83C amends section 141B of the Tax Administration Act 1994, consequential to the introduction of look-through companies.

New clause 86B inserts new section 225C of the Tax Administration Act 1994, so that schedule 38 of the Income Tax Act 2007 may be amended by Order in Council.

New clause 94B amends section 14 of the KiwiSaver Act 2006, consequential to the introduction of look-through companies.

New schedule 2 contains new schedule 38 of the Income Tax Act 2007.