

**Reprint
as at 29 May 2009**



**Taxation (Business Tax Measures)
Act 2009**

Public Act 2009 No 5
Date of assent 30 March 2009
Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Inland Revenue Department.

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1 Title

This Act is the Taxation (Business Tax Measures) Act 2009.

2 Commencement

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) In Part 1, the sections, other than sections 3 and 24, come into force on 1 April 2009.
- (3) In Part 2,—
 - (a) section 32 is treated as coming into force on 19 December 2007:
 - (b) sections 29(1), 30(1), and 31(1) come into force on 1 April 2009:
 - (c) sections 29(2), 30(2), and 31(2) come into force on 1 April 2010.

Part 1

Business tax measures

Amendments to Income Tax Act 2007

3 Income Tax Act 2007

Sections 4 to 22 amend the Income Tax Act 2007.

4 New heading and new section DB 62

- (1) After section DB 61, the following is added:

“Legal expenses

“DB 62 Deduction for legal expenses

“When this section applies

- “(1) This section applies to a person when their total legal expenses for an income year is equal to or less than \$10,000.

“Deduction

- “(2) The person is allowed a deduction for the legal expenses.

“Definition

- “(3) For the purposes of this section, **legal expenses** means fees for **legal services** (as defined in the Lawyers and Conveyancers Act 2006) provided by a person who holds a practising certificate issued by the New Zealand Law Society or an Australian equivalent.

“Link with subpart DA

- “(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

“Defined in this Act: amount, capital limitation, deduction, general limitation, general permission, income year, legal expenses”.

- (2) Subsection (1) applies for the 2009–10 income year and later income years.

5 Valuing closing stock under \$5,000

- (1) In the heading to section EB 23, “**\$5,000**” is replaced by “**\$10,000**”.
- (2) In section EB 23(1)(b), “\$5,000” is replaced by “\$10,000”.
- (3) Subsections (1) and (2) apply for the 2009–10 income year and later income years.

6 When use of spreading method not required

- (1) Section EW 13(2), other than the heading, is replaced by the following:
- “(2) A trustee who holds a financial arrangement in trust to manage compensation paid for personal injury under the Injury Prevention, Rehabilitation, and Compensation Act 2001, the Accident Insurance Act 1988, any of the former Acts as defined in section 13 of the Accident Insurance Act 1998, the Workers’ Compensation Act 1956, or a court order does not use any of the spreading methods for the financial arrangement if the trustee is a cash basis person.”
- (2) Subsection (1) applies for the 2009–10 income year and later income years.

7 Straight-line method

- (1) In section EW 17(1)(a), “\$1,500,000” is replaced by “\$1,850,000”.
- (2) Subsection (1) applies for the 2009–10 income year and later income years.

8 Consistency of use of straight-line method and market valuation method

- (1) In the heading to section EW 25(3), “\$1,500,000” is replaced by “\$1,850,000”.
- (2) In section EW 25(3), “\$1,500,000” is replaced by “\$1,850,000”.
- (3) Subsections (1) and (2) apply for the 2009–10 income year and later income years.

9 Section EW 54 replaced

- (1) Section EW 54 is replaced by the following:

“EW 54 Meaning of cash basis person

“Who is cash basis person

- “(1) A person is a **cash basis person** for an income year if—
- “(a) 1 of the following applies in the person’s case for the income year:
 - “(i) section EW 57(1); or
 - “(ii) section EW 57(2); and
 - “(b) section EW 57(3) applies in the person’s case for the income year.

“Persons excluded by Commissioner

- “(2) A person may be excluded under section EW 59 from being a cash basis person for a class of financial arrangements.

“Defined in this Act: cash basis person, financial arrangement, income year”.

- (2) Subsection (1) applies for the 2009–10 income year and later income years.

10 Section EW 56 repealed

- (1) Section EW 56 is repealed.
- (2) Subsection (1) applies for the 2009–10 income year and later income years.

11 Thresholds

- (1) In section EW 57(1), “section EW 56(1)(a)(i)” is replaced by “section EW 54(1)(a)(i)”.
- (2) In section EW 57(2), “section EW 56(1)(a)(ii)” is replaced by “section EW 54(1)(a)(ii)”.
- (3) In section EW 57(3), “section EW 56(1)(b)” is replaced by “section EW 54(1)(b)”.
- (4) After section EW 57(9), the following is added:
“Increase in specified sums
“(10) The Governor-General may make an Order in Council increasing a sum specified in any of subsections (1) to (3).”
- (5) Subsections (1) to (3) apply for the 2009–10 income year and later income years.

12 Financial arrangements, income, and expenditure relevant to criteria

- (1) In section EW 58(1), “the natural person” is replaced by “the person”.
- (2) In section EW 58(3),—
 - (a) the subsection heading is replaced by “*Beneficiary of bare trust*”:
 - (b) “A natural person” is replaced by “A person”.
- (3) In section EW 58(4),—
 - (a) the subsection heading is replaced by “*Beneficiary of trust other than bare trust*”:
 - (b) “a natural person” is replaced by “a person”.
- (4) In section EW 58(5),—
 - (a) the subsection heading is replaced by “*Trustee*”:
 - (b) “a natural person” is replaced by “a person”.
- (5) Subsections (1) to (4) apply for the 2009–10 income year and later income years.

13 Section EW 59 replaced

- (1) Section EW 59 is replaced by the following:

“EW 59 Exclusion by Commissioner

The Commissioner may treat a person who would otherwise be a cash basis person for a class of financial arrangements as not being a cash basis person for the class if—

- “(a) the person, or any other person, has structured and promoted the class to defer an income tax liability:
- “(b) the parties to a financial arrangement are associated, and the person’s calculation of income and expenditure under the financial arrangement differs from that used by the associated person.

“Defined in this Act: associated person, cash basis person, Commissioner, financial arrangement, income, income tax liability”.

- (2) Subsection (1) applies for the 2009–10 income year and later income years.

14 Trustee of deceased’s estate

- (1) In section EW 60(2) and (3), “section EW 56(1)(a) and (b)” is replaced by “section EW 54(1)(a) and (b)”.
- (2) In section EW 60(4), “to EW 56” is replaced by “and EW 55”.
- (3) Subsections (1) and (2) apply for the 2009–10 income year and later income years.

15 PAYE income payment forms for amounts of tax paid to Commissioner

In section RD 22,—

- (a) in the heading to section RD 22(3), “\$100,000” is replaced by “\$500,000”:
- (b) in subsection (3), “\$100,000” is replaced by “\$500,000”:
- (c) in subsection (4), “\$100,000” is replaced by “\$500,000”.

16 Unclassified benefits

In section RD 45,—

- (a) in subsection (2)(a), “\$200” is replaced by “\$300”:
- (b) in subsection (2)(b), “\$15,000” is replaced by “\$22,500”:
- (c) in subsection (3)(a), “\$800” is replaced by “\$1,200”:
- (d) in subsection (3)(b), “\$15,000” is replaced by “\$22,500”:
- (e) in subsection (4)(a), “\$800” is replaced by “\$1,200”:

- (f) in subsection (4)(b), “\$15,000” is replaced by “\$22,500”.

17 Adjustments for unclassified benefits on amalgamation

In section RD 46,—

- (a) in subsection (2), “\$15,000” is replaced by “\$22,500” in both places in which it appears:
- (b) in subsection (3), “\$15,000” is replaced by “\$22,500” in both places in which it appears:
- (c) in subsection (4), “\$15,000” is replaced by “\$22,500” in both places in which it appears:
- (d) in subsection (5), “\$15,000” is replaced by “\$22,500” in both places in which it appears.

18 Close company option

- (1) Section RD 60(1), other than the heading, is replaced by the following:

“(1) This section applies in an income year when an employer that is a close company provides a fringe benefit to a shareholder-employee if, in the preceding income year,—

“(a) the gross amounts of tax for both PAYE income payments and employer’s superannuation contributions for the corresponding tax year were no more than \$500,000; or

“(b) the only benefit provided by the employer was a fringe benefit—

“(i) arising under section CX 6(1) (Private use of motor vehicle); and

“(ii) limited to making available to shareholder-employees 1 vehicle or 2 vehicles for their private use; or

“(c) the employer did not employ any employees.”

- (2) In section RD 60(2)(b), “subsection (1)(b)” is replaced by “subsection (1)(c)”.

19 Small business option

In section RD 61(1)(a), “\$100,000” is replaced by “\$500,000”.

20 Section RZ 3 replaced

Section RZ 3 is replaced by the following:

“RZ 3 Standard method: 2008–09 and 2009–10 income years

“When this section applies

- “(1) This section applies to the calculation of a person’s provisional tax liability for any instalments payable on or after 1 April 2009 for the 2008–09 income year, and for all instalments for the 2009–10 income year, when section RC 5 (Methods for calculating provisional tax liability) applies.

“Standard method modified: for 5% uplift

- “(2) The standard method under section RC 5(2) is modified so that,—

- “(a) for the 2008–09 income year, instead of using 105%, the amount of provisional tax payable is calculated using—
“(i) 100%, if the person is not a new tax rate person;
or
“(ii) 90%, if the person is a new tax rate person:

- “(b) for the 2009–10 income year, instead of using 105%, the amount of provisional tax payable is calculated using 100%.

“Standard method modified: for 10% uplift

- “(3) The standard method under section RC 5(3) is modified so that, for the 2008–09 income year and the 2009–10 income year, instead of using 110%, the amount of provisional tax payable is calculated using—

- “(a) 105%, if the person is not a new tax rate person; or
“(b) 95%, if the person is a new tax rate person.

“Defined in this Act: amount, income year, new tax rate person, pay, provisional tax, residual income tax”.

21 Section RZ 5 replaced

Section RZ 5 is replaced by the following:

“RZ 5 Calculating amounts under standard method: 2008–09 and 2009–10 income years

“When this section applies

- “(1) This section applies to the calculation of a person’s provisional tax liability for any instalments payable on or after 1 April

2009 for the 2008–09 income year, and for all instalments for the 2009–10 income year, when section RC 10 (Calculating amount of instalment under standard and estimation methods) applies.

“Calculation modified: 2008–09 income year

- “(2) In the calculation of the amount of an instalment for the 2008–09 income year, in section RC 10(3)(a),—
- “(a) subparagraph (i) is modified so that instead of a 5% uplift,—
- “(i) no uplift is applied, if the person is not a new tax rate person; or
- “(ii) a 10% reduction is applied, if the person is a new tax rate person:
- “(b) subparagraph (ii) is modified so that instead of a 10% uplift,—
- “(i) a 5% uplift is applied, if the person is not a new tax rate person; or
- “(ii) a 5% reduction is applied, if the person is a new tax rate person.

“Calculation modified: 2009–10 income year

- “(3) In the calculation of the amount of an instalment for the 2009–10 income year, in section RC 10(3)(a),—
- “(a) subparagraph (i) is modified so that instead of a 5% uplift, no uplift is applied:
- “(b) subparagraph (ii) is modified so that instead of a 10% uplift,—
- “(i) a 5% uplift is applied, if the person is not a new tax rate person; or
- “(ii) a 5% reduction is applied, if the person is a new tax rate person.

“Defined in this Act: amount, income year, new tax rate person, pay, provisional tax, residual income tax”.

22 Definitions

- (1) In section YA 1, after the definition of **legal defeasance**, the following is inserted:
- “**legal expenses** is defined in section DB 62 (Deduction for legal expenses) for the purposes of that section”.

- (2) In section YA 1, in paragraph (b)(ii) of the definition of **initial provisional tax liability**, “\$35,000” is replaced by “\$50,000”.

Amendment to Tax Administration Act 1994

23 Provisional tax and rules on use of money interest

- (1) In section 120KE(1)(b) of the Tax Administration Act 1994, “\$35,000” is replaced by “\$50,000”.
- (2) Subsection (1) applies for the 2009–10 income year and later income years.

*Amendments to Goods and Services Tax Act
1985*

24 Goods and Services Tax Act 1985

Sections 25 to 27 amend the Goods and Services Tax Act 1985.

25 Taxable periods

In section 15(2)(a), “\$250,000” is replaced by “\$500,000”.

26 Requirements for accounting on payments basis

In section 19A(1)(b)(i), “\$1,300,000” is replaced by “\$2,000,000”.

27 Persons making supplies in course of taxable activity to be registered

In section 51(1)(a), “\$40,000” is replaced by “\$60,000”.

Part 2

Minor remedial matters

Amendments to Income Tax Act 2007

28 Income Tax Act 2007

Sections 29 to 31 amend the Income Tax Act 2007.

29 Employer’s liability for attributed benefits

- (1) In section RD 50(5), “63.93%” is replaced by “61.29%”.

- (2) *[Repealed]*
- (3) Subsection (1) applies for the 2009–10 income year and later income years.
- (4) Subsection (2) applies for the 2010–11 income year and later income years.

Section 29(2): repealed, on 29 May 2009, by section 4 of the Taxation (Budget Tax Measures) Act 2009 (2009 No 14).

30 Calculation for certain employees when information lacking

- (1) In section RD 52(3)(b), “63.93%” is replaced by “61.29%”.
- (2) *[Repealed]*
- (3) Subsection (1) applies for the 2009–10 income year and later income years.
- (4) Subsection (2) applies for the 2010–11 income year and later income years.

Section 30(2): repealed, on 29 May 2009, by section 4 of the Taxation (Budget Tax Measures) Act 2009 (2009 No 14).

31 Pooling non-attributed benefits

- (1) In section RD 53(4)(a), “64%” is replaced by “61%”.
- (2) *[Repealed]*
- (3) Subsection (1) applies for the 2009–10 income year and later income years.
- (4) Subsection (2) applies for the 2010–11 income year and later income years.

Section 31(2): repealed, on 29 May 2009, by section 4 of the Taxation (Budget Tax Measures) Act 2009 (2009 No 14).

Amendment to Tax Administration Act 1994

32 Interpretation

In section 3(1) of the Tax Administration Act 1994, in paragraph (e)(ii) of the definition of **response period**, “1 year” is replaced by “2 years”.

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Notes

1 *General*

This is a reprint of the Taxation (Business Tax Measures) Act 2009. The reprint incorporates all the amendments to the Act as at 29 May 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/legislation/reprints.shtml> or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Taxation (Budget Tax Measures) Act 2009 (2009 No 14): section 4
