

Taxation (Remedial Provisions) Act 1998

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An Act to make remedial amendments respecting tax and other payments made under Inland Revenue Acts

BE IT ENACTED by the Parliament of New Zealand as follows:**1 Short Title**

This Act may be cited as the Taxation (Remedial Provisions) Act 1998.

Part 1**Amendments to Income Tax Act 1994**

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

2 Income Tax Act 1994

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

3 Non-profit bodies' and charities' exempt income

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

4 Exemption income—dividends

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

5 Exemption income—dividends

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

6 National standard cost scheme for specified livestock

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

- 7 Determination of national average market values for specified livestock**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 8 Rules for calculating New Zealand group debt percentage**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 9 New Subpart added**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 10 Rebate in respect of gifts of money**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 11 New Subpart added**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 12 Foreign tax credits—controlled foreign companies**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 13 New Subpart added**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).
- 14 Amount of provisional tax payable**
[Repealed]
Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

15 Assessment and payment of terminal tax*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

16 Payment of tax*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

17 Debits arising to imputation credit account*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

18 Credits and debits arising to branch equivalent tax account of company*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

19 Use of credit to reduce dividend withholding payment, or use of debit to satisfy income tax liability*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

20 Credits arising to dividend withholding payment account*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

21 Debits arising to dividend withholding payment account*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

22 Company may attach dividend withholding payment credit to dividend

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

23 Transfer by life insurance company of credit balance to policyholder credit account

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

24 Transfer of credit balance to imputation credit account

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

25 New Subpart added

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

26 New section added

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

27 Tax deductions to be made by employers

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

28 Application of tax codes specified in tax code declarations or tax code certificates

[Repealed]

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

29 Assessment and payment of tax*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

30 Non-resident withholding tax imposed*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

31 New heading and section added*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

32 Definitions*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

33 Further definitions of associated persons*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

34 New sections added*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

35 Schedule replaced*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

36 Schedule replaced*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

37 Schedule 19—Basic Tax Deductions*[Repealed]*

Part 1 (sections 2 to 37): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Part 2**Amendments to Tax Administration Act
1994****38 Tax Administration Act 1994**

The Tax Administration Act 1994 is amended by this Part.

39 Interpretation

(1) In section 3, after the definition **tax**, the following is inserted:

“**Tax agent** means a person who prepares the returns of income required to be furnished for 10 or more taxpayers and who—

“(a) Carries on a professional public practice; or

“(b) Carries on any business in which returns of income are prepared; or

“(c) Is the Maori Trustee.”

(2) Subsection (1) applies to the 1997-98 and subsequent income years.

40 Shareholder dividend statement to be provided by company

(1) In section 29(1), after “or a dividend withholding payment credit attached”, “or a conduit tax relief amount attached” is inserted.

(2) Subsection (1) applies to dividends paid on or after 1 April 1998.

41 New section added

(1) After section 30, the following is inserted:

“30A Statement to shareholder when conduit tax relief credit attached to dividend

Where a conduit tax relief company attaches a conduit tax relief credit to a dividend under section MI 7 of the Income Tax Act 1994, the company must include the following informa-

tion in the shareholder dividend statement required by section 29:

- “(a) The amount of the conduit tax relief credit:
- “(b) The amount of the conduit tax relief additional dividend paid under section LG 1 of the Income Tax Act 1994:
- “(c) The aggregate of—
 - “(i) The dividend paid to the shareholder; and
 - “(ii) The conduit tax relief additional dividend paid to the shareholder.”.

- (2) Subsection (1) applies to dividends paid on or after 1 April 1998.

42 Annual income tax returns not required from taxpayers

- (1) Section 33A(1) is amended by adding “; and” at the end of paragraph (i) and inserting, after paragraph (i), the following paragraph:

“(j) Is, notwithstanding paragraph (i), a person who, in an income year, had an IRD loan balance under the Student Loan Scheme Act 1992 and whose IRD loan balance on the last day of an income year was nil.”.

- (2) Subsection (1) applies to the 1998-99 and subsequent income years.

43 Dates by which annual returns need to be furnished

- (1) Section 37(4) is replaced by:

“(4) Subject to subsection (5), the Commissioner may extend a tax agent’s time for furnishing a return of income for any taxpayer to a date the Commissioner thinks proper in the circumstances, if the Commissioner is satisfied that—

- “(a) The tax agent is unable to furnish the return of income on or before the date set by subsection (1); or
- “(b) It would be unreasonable, having regard to the circumstances of the tax agent preparing the return, to require the return to be furnished on or before the date set by subsection (1).

“(4A) The Commissioner may refuse to extend a tax agent’s time for furnishing a taxpayer’s return of income for an income year and may cancel an existing extension of time for furnishing such a return if the taxpayer has not furnished any required

return of income for a prior income year and that return is not subject to an extension of time.”.

- (2) Subsection (1) applies to the 1997-98 and subsequent income years.

44 New section added

- (1) After section 68, the following is inserted:

“68A Statement when conduit tax relief credit attached to dividend

If a conduit tax relief company attaches a conduit tax relief credit to a dividend, the company must include the following information in the company dividend statement required by section 67:

“(a) The conduit tax relief additional dividend paid under section LG 1 of the Income Tax Act 1994:

“(b) The dividend withholding payment ratio (calculated as if the credit were a dividend withholding payment credit):

“(c) The combined imputation and dividend withholding payment ratio (calculated as if the credit were a dividend withholding payment credit), if an imputation credit has been attached to the dividend.”.

- (2) Subsection (1) applies to dividends paid on or after 1 April 1998.

45 Annual imputation return

- (1) After section 69(1)(e), the following is inserted:

“(ea) If the company is a conduit tax relief company for the imputation year,—

“(i) The opening and closing balances of the company’s conduit tax relief account for the imputation year:

“(ii) The amount and source of all credits and debits that have arisen in the company’s tax relief account in accordance with Part MI of the Income Tax Act 1994:”.

- (2) After section 69(3), the following is added:

“(4) For the purposes of subsections (2) and (3), a conduit tax relief credit is treated as if it were a dividend withholding payment credit.”.

- (3) Subsections (1) and (2) apply to 1998-99 and subsequent income years.

46 Commissioner to make determinations

In section 92(5), in the words before paragraph (a), after “section MG 12”, “or MI 12” is inserted.

47 New section added

- (1) After section 103, the following is inserted:

“103A Assessment of dividend withholding payment relating to conduit tax relief

“(1) The Commissioner may assess the amount of dividend withholding payment payable by a company under section MI 10 of the Income Tax Act 1994 that the Commissioner considers appropriate.

“(2) The company must pay the amount assessed unless the company establishes in proceedings challenging the assessment that the assessment is excessive or that the company is not chargeable with the dividend withholding payment.

“(3) The Commissioner’s assessment can be challenged in the same way as income tax, and Part VIIIA of this Act applies accordingly.

“(4) Sections 109, 111, and 113 apply to an assessment as if—
“(a) The term **taxpayer** included a company required to deduct a dividend withholding payment; and
“(b) The term **tax already assessed** includes the dividend withholding payment already assessed under this section.”.

- (2) Subsection (1) applies to the 1998-99 and subsequent income years.

48 Remission or cancellation on written request

In section 183H, in the words before paragraph (a), after “tax”, “under section 183A or 183D” is inserted.

Part 3
Amendments to Goods and Services Tax
Act 1985

- 49 Goods and Services Tax Act 1985**
The Goods and Services Tax Act 1985 is amended by this Part.
- 50 Application**
Sections 51 and 52 are deemed to have come into force on 1 October 1996.
- 51 Short Title, etc**
In section 1(2), “sections 12 and 13” is replaced by “section 12”.
- 52 Interpretation**
In the definition of **input tax** in section 2, “Customs Act 1966” is replaced by “Customs and Excise Act 1996”.
- 53 Zero-rating**
- (1) In section 11(2)(ca)(i), “in relation to” is replaced by “directly in connection with”.
 - (2) Subject to subsection (3), subsection (1) is deemed to have come into force on 1 October 1996.
 - (3) Subsection (1) is deemed to have come into force on 20 November 1997 if a person has furnished a return—
 - (a) In reliance on the words “in relation to”; and
 - (b) On or before 20 November 1997; and
 - (c) For a taxable period that ends on a date between 30 September 1996 and 21 November 1997.

Part 4
Amendments to Stamp and Cheque
Duties Act 1971

- 54 Stamp and Cheque Duties Act 1971**
The Stamp and Cheque Duties Act 1971 is amended by this Part.

55 Interpretation

- (1) In section 86A, before the definition of **cardholder**, the following is inserted:

“**Automatic withdrawal of funds** means obtaining through the use of a credit card a supply of goods, services, money or money’s worth from an automatic teller machine (ATM) operated by a credit card agency, whether or not it is the credit card agency that issued the credit card and whether or not payment in respect of the supply is made by another credit card agency”.

- (2) In section 86A, after the definition of **credit card agency**, the following is inserted:

“**Electronic transfer of funds** means using a credit card to make payment to a merchant by electronic means, or a process that temporarily replaces the electronic means, from an account of a cardholder, whether or not through an agent of either or both of them, for which the credit card agency does not assume liability for payment for goods, services, money, or money’s worth, other than a liability that is not a primary liability but is in the nature of a guarantee, and includes an electronic funds transfer at point of sale (EFTPOS) and an automatic payment (AP)”.

- (3) In section 86A, in the definition of **liable transaction**, after “issued by itself”, insert “or an automatic withdrawal of funds or an electronic transfer of funds”.

- (4) Subsections (1) to (3) are deemed to have come into force on 10 July 1981.

- (5) Notwithstanding subsection (4), subsections (1) to (3) do not apply with respect to a transaction that is a liable transaction (as defined in law before subsections (1) to (3) are enacted) entered into before 1 December 1997 if, before that date, details of the liable transaction have been forwarded to the Commissioner in the manner prescribed under section 86D and the credit card transaction duty on the liable transaction has been paid.

56 Repeal

- (1) Part 6A is repealed on 1 April 1998.
- (2) Notwithstanding subsection (1), sections 86A to 86E continue to apply to liable transactions that occur before 1 April 1998.

Part 5
Amendments to Taxation (Remedial Provisions) Act 1997

57 Taxation (Remedial Provisions) Act 1997

- (1) The Taxation (Remedial Provisions) Act 1997 is amended by this Part.
- (2) In section 31, “28” is replaced by “30”.
- (3) In section 37, “33” is replaced by “36”.
- (4) This section is deemed to have come into force on 23 September 1997.

Schedule 1

s 35

New Schedule 13 of Income Tax Act 1994

[Repealed]

Schedule 1: repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Schedule 2

s 36

New Schedule 13 of Income Tax Act 1994

[Repealed]

Schedule 2: repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).