



COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020

Public Act 2020 No 8
Date of assent 25 March 2020
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020.

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) Sections 15, 16, and 29(9) come into force on 1 April 2019.
- (3) Sections 8, 32, and 34 come into force on 17 March 2020.
- (4) Sections 37 and 38 come into force on 23 March 2020.
- (5) Sections 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29(2) and (4) to (8), 30, and 39 come into force on 1 April 2020.
- (6) Sections 17, 19, 20, and 29(3) come into force on 1 July 2020.
- (7) Section 36 comes into force on 1 May 2021.

Part 1

Amendments to Income Tax Act 2007

3 Income Tax Act 2007

This Part amends the Income Tax Act 2007.

4 Section DB 65 repealed (Allowance for certain commercial buildings)

Repeal section DB 65.

5 Section EE 31 amended (Annual rate for item acquired in person’s 1995–96 or later income year)

- (1) In section EE 31(2)(d), replace “building” with “residential building”.
- (2) In section EE 31(3)(c), replace “building” with “residential building”.
- (3) In section EE 31, list of defined terms,—

- (a) delete “building”;
 - (b) insert “residential building”.
- (4) This section applies for the 2020–21 and later income years.

6 Section EE 35 amended (Special rate or provisional rate)

- (1) In section EE 35(2), heading, replace “, *special excluded depreciable property, or building*” with “*or residential building*”.
- (2) In section EE 35(2), replace “, an item of special excluded depreciable property, or a building” with “or a residential building”.
- (3) In section EE 35, list of defined terms,—
- (a) delete “building” and “special excluded depreciable property”;
 - (b) insert “residential building”.
- (4) This section applies for the 2020–21 and later income years.

7 Section EE 37 amended (Improvements)

- (1) Replace section EE 37(3)(a) and (ab) with:
- (a) a person who uses the diminishing value method or the straight-line method for the item that was improved may choose to apply subsection (4) or (5):
- (2) Repeal section EE 37(3B).
- (3) In section EE 37, list of defined terms, delete “grandparented structure”, “international aircraft”, and “New Zealand”.
- (4) This section applies for the 2020–21 and later income years.

8 Section EE 38 amended (Items of low value)

- (1) In section EE 38(2)(b), replace “2005.” with “2005 and before 17 March 2020.”.
- (2) After section EE 38(2)(b), insert:
- (c) \$5,000, if the item is acquired on or after 17 March 2020 and before 17 March 2021;
 - (d) \$1,000, if the item is acquired on or after 17 March 2021.

9 Section EE 60 amended (Total deductions in section EE 56)

After section EE 60(1)(c), insert:

- (d) the total amount of previous deductions under section DB 65 (Allowance for certain commercial buildings).

10 Section EE 61 amended (Meaning of annual rate)

- (1) In section EE 61(3B), heading, replace “*buildings*” with “*residential buildings*”.

- (2) In section EE 61(3B), replace “building” with “residential building”.
 - (3) Replace section EE 61(7B) with:
Residential buildings
 - (7B) The rate is 0% for all depreciation methods, if the item is a residential building.
 - (4) In section EE 61, list of defined terms,—
 - (a) delete “building” and “special excluded depreciable property”:
 - (b) insert “residential building”.
 - (5) This section applies for the 2020–21 and later income years.
- 11 Section EE 64 amended (Meaning of excluded depreciable property)**
- (1) Repeal section EE 64(3).
 - (2) In section EE 64, list of defined terms, delete “special excluded depreciable property”.
 - (3) This section applies for the 2020–21 and later income years.
- 12 Section EE 67 amended (Other definitions)**
- (1) In section EE 67, repeal the definition of **special excluded depreciable property**.
 - (2) This section applies for the 2020–21 and later income years.
- 13 Section EZ 13 amended (Annual rate for item acquired on or after 1 April 1993 and before end of person’s 1994–95 income year)**
- (1) In section EZ 13(2)(a), replace “building” with “residential building”.
 - (2) In section EZ 13(2)(c), replace “building” with “residential building”.
 - (3) In section EZ 13, list of defined terms,—
 - (a) delete “building”:
 - (b) insert “residential building”.
 - (4) This section applies for the 2020–21 and later income years.
- 14 Section EZ 14 amended (Pre-1993 depreciation rate)**
- (1) In section EZ 14(1), replace “buildings” with “residential buildings”.
 - (2) In section EZ 14, list of defined terms,—
 - (a) delete “building”:
 - (b) insert “residential building”.
 - (3) This section applies for the 2020–21 and later income years.
- 15 Section LA 5 amended (Treatment of remaining credits)**
- (1) Replace section LA 5(4B), other than the heading, with:
 - (4B) A person’s research and development tax credit is used by—

- (a) first, the Commissioner refunding the tax credit up to the maximum limit of the person's refundability cap, by treating it as a refundable tax credit and applying section LA 6(2). There is no maximum limit for refunding the tax credit, if and to the extent to which—
 - (i) the person is a levy body researcher:
 - (ii) the tax credit is for eligible research and development expenditure on approved research providers:
- (b) secondly, applying section LY 8 (Carry forward for remaining research and development tax credits), to the extent to which paragraph (a) does not apply to the tax credit.

- (2) After section LA 5(5), insert:

Meaning of refundability cap

- (5B) For the purposes of this section, **refundability cap** is the amount calculated for the tax year using the following formula:

$$\text{own tax} + \text{other wholly-owned tax} + \text{other controller tax} - \text{double-dip allocation.}$$

Definition of items in formula

- (5C) In the formula,—

- (a) **own tax** is the total amount of PAYE, ESCT, and FBT that the person (**person A**) pays for the tax year to the extent to which the total amount has not been allocated under paragraph (b) or (c) to another person for the purposes of calculating their refundability cap for the tax year:
- (b) **other wholly-owned tax** is zero or, if person A is a company and is a member of a wholly-owned group of companies, is the amount of PAYE, ESCT, and FBT that the other members pay for the tax year and that is allocated to person A for the purposes of calculating person A's refundability cap for the tax year:
- (c) **other controller tax** is zero or, if person A is a company, is the total amount of PAYE, ESCT, and FBT that companies that directly or indirectly control person A pay for the tax year and that is allocated to person A for the purposes of calculating their refundability cap for the tax year:
- (d) **double-dip allocation** means the total amount allocated to person A under paragraphs (b) and (c) that has been allocated to a person other than person A for the purposes of calculating the other person's refundability cap for the tax year.

Relationship with material

- (5D) Section LZ 14 (Research and development tax credits' refundability: option for 2019–20 income year) may modify this section for a person's research and development tax credits for the 2019–20 income year.

- (3) In section LA 5, list of defined terms,—
- (a) insert “approved research provider”, “eligible research and development expenditure”, “ESCT”, “FBT”, “levy body researcher”, “PAYE”, and “refundability cap”;
 - (b) delete “associated person”, “exempt income”, and “listed company”.
- (4) This section applies for the 2019–20 and later income years.

16 Section LZ 14 inserted (Research and development tax credits’ refundability: option for 2019–20 income year)

- (1) After section LZ 8, insert:

LZ 14 Research and development tax credits’ refundability: option for 2019–20 income year

When this section applies

- (1) This section applies for a person’s 2019–20 income year when a person chooses to apply this section in their return of income for the 2019–20 income year.
- (2) Despite section LA 5(4B), (5B), and (5C), a person’s research and development tax credit is used by—
 - (a) first, the Commissioner refunding the tax credit up to a maximum of \$255,000, by treating it as a refundable tax credit and applying section LA 6(2), if the person—
 - (i) meets the corporate eligibility criteria in section MX 2 (Corporate eligibility criteria); and
 - (ii) meets the wage intensity criteria in section MX 3 (Wage intensity criteria); and
 - (iii) does not derive exempt income, ignoring exempt income under sections CW 9 and CW 10 (which relate to income from dividends); and
 - (iv) is not associated with a person that derives exempt income, ignoring exempt income under sections CW 9 and CW 10:
 - (b) secondly, applying section LY 8 (Carry forward for remaining research and development tax credits), to the extent to which paragraph (a) does not apply to the tax credit.

Defined in this Act: associated person, exempt income, income year, research and development tax credit, refundable tax credit, return of income, tax credit

- (2) This section applies for the 2019–20 and later income years.

17 Section MA 7 amended (Meaning of full-time earner for family scheme)

- (1) In section MA 7, heading, replace “full-time earner” with “full-time earner and earner”.

- (2) In section MA 7(1), heading, replace “*Weekly employment*” with “*Weekly employment: full-time earner*”.
- (3) After section MA 7(1), insert:

Weekly employment: earner
- (1B) In subparts MB to MG and MZ, an **earner** means a person who, for a week—
 - (a) is employed during the week; or
 - (b) has a spouse, civil union partner, or de facto partner (the **partner**) during the week and the partner or both of them are employed during the week.
- (4) In section MA 7(2), the words before the paragraphs, replace “subsection (1)” with “subsections (1) and (1B)”.
- (5) Replace section MA 7(2)(b) with:
 - (b) a person who is employed becomes incapacitated as described in subsection (3) and is unable to undertake employment in a week in which but for the incapacity they would be employed as provided by subsection (1B)(a) and (b) or would be employed for the number of hours set out in subsection (1)(a) and (b) is treated as having been employed or as having been employed for the hours referred to, as the case may be:

18 Section MC 5 amended (Third requirement: residence)

- (1) Replace the heading to section MC 5 with “**Third requirement: residence or entitlement to emergency benefit**”.
- (2) Replace section MC 5(1), other than the heading, with:
 - (1) The third requirement is that—
 - (a) the person referred to in section MC 2 or the child referred to in section MC 4 meets the residence requirements of subsections (2) and (3), as applicable;
 - (b) the person referred to in section MC 2 is entitled to receive an emergency benefit under section 63 or 64 of the Social Security Act 2018.
- (3) In section MC 5(2), words before the paragraphs, replace “subsection (1)” with “subsection (1)(a)”.
- (4) In section MC 5(3), replace “subsection (1)” with “subsection (1)(a)”.

19 Section MD 9 amended (Fifth requirement: full-time earner)

- (1) In section MD 9, heading, replace “**full-time earner**” with “**earner**”.
- (2) In section MD 9(1), heading, replace “*full-time earner*” with “*earner*”.
- (3) In section MD 9(1), the words before the paragraphs, replace “a full-time earner” with “an earner”.
- (4) In section MD 9(1)(a), replace “a full-time earner” with “an earner”.
- (5) In section MD 9(1)(b), replace “a full-time earner” with “an earner”.

(6) In section MD 9, list of defined terms,—

- (a) delete “full-time earner”;
- (b) insert “earner”.

20 Section MD 10 amended (Calculation of in-work tax credit)

- (1) In section MD 10(3)(d)(i), replace “a full-time earner” with “an earner”.
- (2) In section MD 10(3)(d)(ii), replace “a full-time earner” with “an earner”.
- (3) In section MD 10, list of defined terms, insert “earner”.

21 Section RC 3 amended (Who is required to pay provisional tax?)

- (1) In section RC 3(1)(a), replace “\$2,500” with “\$5,000”.
- (2) In section RC 3(3), replace “\$2,500” with “\$5,000”.
- (3) This section applies for the 2020–21 and later income years.

22 Section RC 4 amended (Choosing to pay provisional tax)

- (1) In section RC 4(1)(a), replace “\$2,500” with “\$5,000”.
- (2) This section applies for the 2020–21 and later income years.

23 Section RC 6 amended (Standard method)

- (1) In section RC 6(4)(b), replace “\$2,500” with “\$5,000”.
- (2) This section applies for the 2020–21 and later income years.

24 Section RC 9 amended (Provisional tax payable in instalments)

- (1) In section RC 9(4)(c), replace “\$2,500” with “\$5,000”.
- (2) In section RC 9(10), replace “\$2,500” with “\$5,000”.
- (3) This section applies for the 2020–21 and later income years.

25 Section RC 13 amended (Paying 2 instalments for tax year)

- (1) In section RC 13(1)(b)(ii), replace “\$2,500” with “\$5,000”.
- (2) This section applies for the 2020–21 and later income years.

26 Section RC 14 amended (Paying 1 instalment for tax year)

- (1) In section RC 14(1)(b)(ii), replace “\$2,500” with “\$5,000”.
- (2) This section applies for the 2020–21 and later income years.

27 Section RC 16 amended (Who may use GST ratio?)

- (1) In section RC 16(2)(a), replace “\$2,500” with “\$5,000”.
- (2) This section applies for the 2020–21 and later income years.

28 Section RM 12 amended (Reduction in provisional tax liability)

- (1) In section RM 12(3), the words before the paragraphs, replace “\$2,500” with “\$5,000”.
- (2) This section applies for the 2020–21 and later income years.

29 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) Repeal the definition of **building**.
- (3) Insert, in appropriate alphabetical order:
earner is defined in section MA 7 (Meaning of full-time earner and earner for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)
- (4) Repeal the definition of **grandparented structure**.
- (5) In the definition of **initial provisional tax liability**, paragraph (b)(i), replace “\$2,500” with “\$5,000”.
- (6) Insert, in appropriate alphabetical order:
non-residential building means a building that is not a residential building
- (7) Insert, in appropriate alphabetical order:
residential building—
 - (a) means a dwelling; and
 - (b) includes a building intended to ordinarily provide accommodation for periods of less than 28 days at a time, if the building, together with other buildings on the same land, has less than 4 units for separate accommodation
- (8) Repeal the definition of **special excluded depreciable property**.
- (9) Insert, in appropriate alphabetic order:
refundability cap is defined in section LA 5(5B) (Treatment of remaining credits) for the purposes of that section
- (10) Subsections (2) and (4) to (8) apply for the 2020–21 and later income years.
- (11) Subsection (9) applies for the 2019–20 and later income years.

30 Schedule 39 repealed (Items for purposes of definition of special excluded depreciable property)

- (1) Repeal schedule 39.
- (2) This section applies for the 2020–21 and later income years.

Part 2

Amendments to other enactments

Amendments to Tax Administration Act 1994

31 Tax Administration Act 1994

Sections 32 to 34 amend the Tax Administration Act 1994.

32 Section 3 amended (Interpretation)

In section 3(1), replace the definition of **government agency** with:

government agency,—

- (a) in section 6, includes any department or Crown entity (as those terms are defined in the Public Finance Act 1989) and any public authority (as defined in the Income Tax Act 2007);
- (b) is defined in schedule 7, part C, subpart 1, clause 23B(6) for the purposes of that clause

33 New section 183ABAB inserted (Remission for taxpayers affected by COVID-19)

After section 183ABA, insert:

183ABAB Remission for taxpayers affected by COVID-19

- (1) This section applies for a taxpayer if—
 - (a) the taxpayer's ability to make a payment required by a tax law on or before the due date for the payment is significantly adversely affected by COVID-19; and
 - (b) the due date for the payment is no earlier than 14 February 2020; and
 - (c) the taxpayer is charged with interest under Part 7 for failing to make the payment by the due date.
- (2) The taxpayer may ask the Commissioner to remit interest accrued after 14 February 2020 (the **interest**) on the payment.
- (3) The Commissioner may remit the interest if—
 - (a) the Commissioner is satisfied that the taxpayer—
 - (i) asked for the relief as soon as practicable; and
 - (ii) made the payment as soon as practicable; and
 - (b) no more than 24 months have passed since the date on which this section comes into force.
- (4) The time limit imposed by subsection (3)(b) may be extended by Order in Council made—
 - (a) on the recommendation of the Minister of Revenue; and

- (b) within 24 months of the date on which this section comes into force.
- (5) An Order in Council (the **order**) made under subsection (4) or this subsection—
 - (a) expires, if not renewed under paragraph (b), after—
 - (i) the period given in the order, if such a period is given; or
 - (ii) if no such period is given, 6 months after the order comes into force:
 - (b) may be renewed or replaced from time to time by an Order in Council made—
 - (i) on the recommendation of the Minister of Revenue; and
 - (ii) before the date on which the order would otherwise expire.
- (6) The Minister of Revenue may recommend the making of an Order in Council under subsection (4) or (5) to extend the time limit only if satisfied that the ability of taxpayers to pay tax on time is likely to continue, beyond the expiry of the existing time limit, to be significantly adversely affected by COVID-19.
- (7) An Order in Council made under subsection (4) or (5) is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

34 Schedule 7 amended (Disclosure rules)

In schedule 7, part C, subpart 1, after clause 23, insert:

23B Government agencies: COVID-19 response purposes

- (1) Section 18 does not prevent the Commissioner disclosing to a government agency information about a person or entity for the purpose of enabling the government agency to provide or fulfil any duty, obligation, or other thing in relation to any person or entity in connection with COVID-19 (including, without limitation, for the purpose of enabling the government agency to carry out an audit, review, or other enforcement function in relation to COVID-19-related assistance provided to any person or entity).
- (2) Despite subclause (1), the Commissioner may disclose the information only if—
 - (a) the Commissioner considers that—
 - (i) the information is readily available; and
 - (ii) it is reasonable and practicable to disclose the information; and
 - (iii) it is not undesirable to disclose the information; and
 - (iv) the information is reasonably necessary for the purpose referred to in subclause (1); and

- (b) no more than 24 months have passed since the date on which this clause comes into force.
- (3) The time limit imposed by subclause (2)(b) may be extended by Order in Council made—
 - (a) on the recommendation of the Minister of Revenue; and
 - (b) within 24 months of the date on which this clause comes into force.
- (4) An Order in Council (the **order**) made under subclause (3) or this subclause—
 - (a) expires, if not renewed under paragraph (b), after—
 - (i) the period given in the order, if such a period is given; or
 - (ii) if no such period is given, 6 months after the order comes into force:
 - (b) may be renewed or replaced from time to time by an Order in Council made—
 - (i) on the recommendation of the Minister of Revenue; and
 - (ii) before the date on which the order would otherwise expire.
- (5) An Order in Council made under subclause (3) or (4) is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.
- (6) In this clause, **government agency** means—
 - (a) a department named in schedule 1 of the State Sector Act 1988:
 - (b) the New Zealand Police:
 - (c) the Accident Compensation Corporation:
 - (d) Kāinga Ora—Homes and Communities.

Amendment to Goods and Services Tax Act 1985

35 New section 89 of Goods and Services Tax Act 1985 inserted (COVID-19-related payments made before commencement of Goods and Services Tax (Grants and Subsidies) Amendment Order 2020)

After section 88 of the Goods and Services Tax Act 1985, insert:

89 COVID-19-related payments made before commencement of Goods and Services Tax (Grants and Subsidies) Amendment Order 2020

A payment of the kind specified in clause 10 or 11 of the Schedule of the Goods and Services Tax (Grants and Subsidies) Order 1992 (SR 1992/323) that is made in the period commencing on 17 March 2020 and ending on 23 March 2020 is not a taxable grant or subsidy for the purposes of section 5(6D).

*Amendments to Social Security Act 2018***36 Schedule 4 of Social Security Act 2018 amended (Rates of benefits)**

- (1) In Schedule 4, Part 8, clause 1(a) of the Social Security Act 2018, replace “900” with “450”.
- (2) In Schedule 4, Part 8, clause 1(b) of the Social Security Act 2018, replace “1,400” with “700”.
- (3) In Schedule 4, Part 8, clause 1(c) of the Social Security Act 2018, replace “1,400” with “700”.

*Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters)
Act 2020***37 Section 2 of Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 amended**

In section 2(35) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020, delete “155”.

38 Section 155 of Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 repealed

Repeal section 155 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020.

*Amendment to Commissioner’s Table of Depreciation Rates***39 Commissioner’s Table of Depreciation Rates amended**

- (1) The rates to apply to non-residential buildings for the purposes of the Income Tax Act 2007, and the asset class, estimated useful life, general diminishing value, and straight-line depreciation rate to be added into the “Buildings and Structures” asset category of the Commissioner’s Table of Depreciation Rates are:

Asset class	Estimated useful life (years)	DV rate (%)	SL rate (%)
Buildings (non-residential buildings)	50	2	1.5

- (2) This section applies for the 2020–21 and later income years.

Legislative history

25 March 2020

Introduction (Bill 237–1), first reading, second reading, third reading

25 March 2020

Royal assent

This Act is administered by the Inland Revenue Department and the Ministry of Social Development.