



# Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021

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Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021.

**2 Commencement**

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.
- (2) Sections 27, 35(2) and (4), 66, 94, 106(2), 124, 125, 126, 127, 131, and 135(10), (15), (21), and (45) come into force on 1 April 2008.
- (3) Section 87 comes into force on 1 April 2009.
- (4) Sections 53, 54, and 135(23) come into force on 1 July 2010.
- (5) Section 135(16) comes into force on 1 April 2011.
- (6) Sections 186(2) and (5) and 189 come into force on 1 April 2012.
- (7) Section 20 comes into force on 29 May 2012.
- (8) Section 135(2) comes into force on 1 July 2012.
- (9) Sections 34, 51(2) and (3), 52, 55, 129, and 135(9) come into force on 2 November 2012.
- (10) Section 77 comes into force on 1 April 2014.
- (11) Section 184 comes into force on 30 June 2014.
- (12) Section 63 comes into force on 1 April 2015.

- (13) Section 135(22) comes into force on 1 October 2015.
- (14) Section 128 comes into force on 1 July 2016.
- (15) Section 186(1), (3), and (4) come into force on 1 October 2016.
- (16) Section 144(4)(d) comes into force on 21 February 2017.
- (17) Sections 24, 36, 39, 41, 56, 57, and 135(11), (17), and (18) come into force on 1 April 2017.
- (18) Section 19 comes into force on 29 March 2018.
- (19) Section 140 comes into force on 23 May 2018.
- (20) Sections 64(3) and (5), 65, 67, 68, 69, 80, 81, 82, and 133 come into force on 1 July 2018.
- (21) Sections 14, 30, 43, 44, 49, and 135(27), (33), and (34) come into force on 1 January 2019.
- (22) Sections 58, 59, 60, 172, and 218 come into force on 18 March 2019.
- (23) Sections 23, 45, 46(2), 120, 135(14), 136, 137, 168, 180(4), and 192(3) come into force on 1 April 2019.
- (24) Section 194 comes into force on 17 November 2019.
- (25) Sections 25, 74, 84, and 135(41) and (43) come into force on 17 March 2020.
- (26) Sections 86, 89, and 90 come into force on 23 March 2020.
- (27) Section 219 comes into force on 25 March 2020.
- (28) Sections 5, 15, 18, 22, 31, 32, 33, 35(1) and (3), 42, 47, 51(1), 70, 72, 75, 76, 88, 91, 92, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106(1), 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 121, 132, 135(3), (12), (13), (26), (28), (30), (31), (32), (35), (38), (39), and (46), 139, 144(3), 154, 155, 156, 157, 161, 163, 164(1) and (3), and 180(3), (5), and (1D) come into force on 1 April 2020.
- (29) Section 114 comes into force on 15 April 2020.
- (30) Section 186(6) comes into force on 4 June 2020.
- (31) Sections 146, 147(1), 148, 149, 150, 151, 152, and 153 come into force on 7 December 2020.
- (32) Section 178 comes into force on 1 March 2021.
- (33) Sections 6, 7, 8, 9, 10, 13, 26, 28, 29, 46(1), 48, 61, 62, 71, 73, 78, 79, 134, 135(5), (6), (7), (20), (24), (29), (36), (37), (44), and (47), 158, 159, and 160 come into force on 27 March 2021.
- (34) Sections 144(4)(a) to (c), 145, 164(2) and (4), 169, and 173 come into force on 1 April 2021.
- (35) Sections 83 and 135(19) and (42) come into force on 1 July 2021.
- (36) Section 190 comes into force on 1 October 2021.
- (37) Sections 93, 182, 183, 185, and 187 come into force on 1 April 2022.

- (38) Sections 135(4) and 192(2) come into force on the first of the following:
- (a) the day that is 1 year after this Act receives the Royal assent:
  - (b) the day specified in the relevant notes exchanged by the Governments of Australia and New Zealand, as provided by clause 17 of the Arrangement between them on trans-Tasman retirement savings portability.

Section 2(38)(b): sections 135(4) and 192(2) brought into force, on 8 December 2021.

## Part 1

### Annual rates of income tax

#### 3 Annual rates of income tax for 2020–21 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2020–21 tax year, be paid at the basic rates specified in schedule 1 of that Act.

## Part 2

### Amendments to Income Tax Act 2007

#### 4 Income Tax Act 2007

Sections 5 to 141 amend the Income Tax Act 2007 and section 142 makes consequential amendments to other enactments.

#### 5 Section BC 7 amended (Income tax liability of person with schedular income)

- (1) In section BC 7(5), replace “who derives income under section CP 1 (Attributed income of investors in multi-rate PIEs) is calculated” with “, when the rate of tax applied for the year is not equal to the investor’s prescribed investor rate for the year, is calculated”.
- (2) In section BC 7, in the list of defined terms, insert “prescribed investor rate”.

#### 6 Section CB 6A replaced (Disposal within 5 years: bright-line test for residential land)

- (1) Replace section CB 6A with:

##### **CB 6A Disposal within 10 years: bright-line test for residential land**

*Disposal within 10 years*

- (1) Subject to subsection (6), an amount that a person derives from disposing of residential land is income of the person if the bright-line date for the residential land is within 10 years of—
  - (a) the date on which the instrument to transfer the land to the person was registered—

- (i) under the Land Transfer Act 2017; or
- (ii) under foreign laws of a similar nature to the Land Transfer Act 2017, if the land is outside New Zealand; or
- (b) their date of acquisition of the land, if an instrument to transfer the land to the person is not registered on or before the bright-line date.

*Subdivision*

- (2) Subject to subsection (6), and despite subsection (1), an amount that a person derives from disposing of residential land that results from the person subdividing other land (the **undivided land**) is income of the person if the bright-line date for the residential land is within 10 years of—
- (a) the date on which the instrument to transfer the undivided land to the person was registered—
    - (i) under the Land Transfer Act 2017; or
    - (ii) under foreign laws of a similar nature to the Land Transfer Act 2017, if the land is outside New Zealand; or
  - (b) their date of acquisition of the undivided land, if the land is not registered as described in paragraph (a) at the bright-line date.

*Leases with perpetual right of renewal*

- (3) Subject to subsection (6), and despite subsection (1), an amount that a person derives from disposing of a freehold estate in residential land, acquired as the owner of a leasehold estate with a perpetual right of renewal, is income if the bright-line date for the freehold estate is within 10 years of the grant of the leasehold estate.

*Estate or interest acquired upon completion of land development or subdivision*

- (4) Subject to subsection (6), and despite subsection (1), an amount that a person derives from disposing of an estate or interest in residential land, acquired as the result of the completion of a land development or subdivision, is income if the bright-line date for the estate or interest is within 10 years of the person entering into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

*Beginning of 10-year period for transfers by registration if trustees change*

- (5) If the person referred to in subsection (1)(a) or (2)(a) is a trustee of a trust who has been transferred the land or undivided land from a trustee of the trust, the date on which the instrument was registered is treated as occurring on,—
- (a) for subsection (1)(a),—
    - (i) the earliest date (the **first date**) on which an instrument to transfer the land to a trustee of the trust was registered under the relevant law referred to in the subsection, if there has been no intervening transfer to a person who is not a trustee; or

- (ii) the first date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee:
- (b) for subsection (2)(a),—
  - (i) the earliest date (the **undivided date**) on which an instrument to transfer the undivided land to a trustee of the trust was registered under the relevant law referred to in the subsection, if there has been no intervening transfer to a person who is not a trustee; or
  - (ii) the undivided date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.

*Quantification*

- (6) Despite subsections (1), (2), (3), and (4), if the person has excluded days in the bright-line period for the residential land, the amount of income that the person derives from disposing of an estate or interest in the land is equal to the amount described in whichever is the relevant subsection *reduced by* the excluded adjustment amount calculated using the formula in subsection (7).

*Excluded adjustment formula*

- (7) The excluded adjustment amount for the purposes of subsection (6) is calculated using the formula—

$$\text{adjustment days} \div \text{total days} \times \text{unadjusted amount.}$$

*Definition of items in formula*

- (8) The items in the formula in subsection (7) are defined in subsections (9) to (11).

*Adjustment days*

- (9) **Adjustment days** is the total number of excluded days in the bright-line period.

*Total days*

- (10) **Total days** is the total number of days in the bright-line period.

*Unadjusted amount*

- (11) **Unadjusted amount** is the amount described in whichever of subsection (1), (2), (3), or (4) is the relevant subsection for the person.

*Exception: disposal of land by executor, administrator, or beneficiary*

- (12) This section does not apply to an amount that an executor or administrator described in section FC 1(1)(a) (Disposals to which this subpart applies), or a beneficiary described in section FC 1(1)(b), derives from disposing of residential land that was transferred to them on the death of a person.

*Relationship with subject matter*

- (13) This section applies if none of sections CB 6 to CB 12 apply.

*Some definitions*

(14) In this section,—

- (a) **date of acquisition** means the latest date on which the person acquires the estate or interest in the residential land; and
- (b) **excluded day** means a day in a period for which the criteria in section CB 16A(2) are met, including a day that is counted under section CB 16A(6).

Defined in this Act: amount, bright-line date, bright-line period, date of acquisition, dispose, excluded day, estate, income, interest, land, mortgage person, residential land, trustee, year

- (2) Subsection (1) applies to a person’s disposal of residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, subsection (1) does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, subsection (1) does not apply to—
  - (a) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 27 March 2021;
  - (b) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

**7 Section CB 13 amended (Disposal: amount from major development or division and not already in income)**

In section CB 13(1)(a), replace “and CB 14” with “, CB 14, and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

**8 Section CB 14 amended (Disposal: amount from land affected by change and not already in income)**

In section CB 14(1)(a), replace “to CB 12” with “to CB 12 and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

**9 Section CB 15B amended (When land acquired)**

In section CB 15B(1), replace “section CB 6A” with “sections CB 6A and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.



## 10 Section CB 16A replaced (Main home exclusion for disposal within 5 years)

- (1) Replace section CB 16A with:

### CB 16A Main home exclusion for disposal within 10 years

#### *Main home exclusion*

- (1) Section CB 6A does not apply to a person (**person A**) who disposes of residential land if, for all of the days in the bright-line period, the land meets the criteria in subsection (2).

#### *Criteria*

- (2) For the purposes of subsection (1) and subsection (6), the criteria are that the land has been used for the relevant period predominantly for a dwelling that was the main home for 1 or more of the following people:
- (a) person A;
  - (b) a beneficiary of a trust, if person A is a trustee of the trust and—
    - (i) a principal settlor of the trust does not have a main home; or
    - (ii) if a principal settlor of the trust does have a main home, it is that main home which person A is disposing of.

#### *When this section does not apply*

- (3) The exclusion in subsection (1) does not apply to person A if—
- (a) the exclusion has been used by person A 2 or more times within the 2 years immediately preceding the bright-line date for the residential land;
  - (b) person A has engaged in a regular pattern of acquiring and disposing of residential land described in subsection (2).

#### *Regular patterns undertaken by groups of persons*

- (4) For the purposes of subsection (3)(b), in relation to residential land described in subsection (2), person A includes a group of persons if the requirements of subsection (5) are met.

#### *Meaning of group of persons*

- (5) For the purposes of subsection (4), a **group of persons**—
- (a) means 2 or more persons when together all of the persons occupy, or have occupied, residential land described in subsection (2); and
  - (b) includes a person other than a natural person (the **non-natural person**), if another person referred to in paragraph (a) has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person is able to direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

*Special rule: counted days*

- (6) For the purposes of subsection (1) and the definition of **excluded day** in section CB 6A(14)(b), a day that is in the bright-line period is treated as meeting the criteria under subsection (2) (the **criteria**) if—
- (a) the residential land meets the criteria at some time in the bright-line period; and
  - (b) there is a continuous period within the bright-line period for which the criteria are not otherwise met (a **continuous period**); and
  - (c) the beginning or the end of the continuous period adjoins a period within the bright-line period that meets the criteria; and
  - (d) the whole of the continuous period is 365 days or less; and
  - (e) the day is in that continuous period, within the bright-line period.

*A definition*

- (7) In this section, and in sections CZ 40 and EL 9 (which relate to the main home exclusion), **principal settlor** means, for a trust, a settlor whose settlements for the trust are the greatest or greatest equal, by market value.

Defined in this Act: beneficiary, bright-line date, bright-line period, dispose, dwelling, land, main home, person, principal settlor, residential land, settlement, settlor, trustee, year

- (2) Subsection (1) applies to a person’s disposal of residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, subsection (1) does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, subsection (1) does not apply to—
- (a) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 27 March 2021;
  - (b) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

## 11 Section CB 16 amended (Residential exclusion from sections CB 6 to CB 11)

- (1) In section CB 16(1),—
- (a) in paragraph (a), replace “the person” with “the person (**person A**)”;
  - (b) in paragraph (b)(i), (ii), and (iii), replace “the person” with “person A” in each place:

(c) in paragraph (b)(ii), replace “the person’s” with “person A’s” in each place.

(2) Replace section CB 16(3) with:

*Exception*

(3) The exclusion does not apply when—

- (a) section CB 6(1) applies to the disposal; and
- (b) person A has engaged in a regular pattern of acquiring and disposing of land described in subsection (1).

*Regular patterns undertaken by groups of persons*

(4) For the purposes of subsection (3), in relation to land described in subsection (1), person A includes a group of persons if the requirements of subsection (5) are met.

*Meaning of group of persons*

(5) For the purposes of subsection (4), a **group of persons**—

- (a) means 2 or more persons when together all of the persons occupy, or have occupied, land described in subsection (1); and
- (b) includes a person other than a natural person (the **non-natural person**), if another person referred to in paragraph (a) has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person is able to direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

(3) In section CB 16, list of defined terms, insert “group of persons”.

**12 Section CB 19 amended (Business exclusion from sections CB 6 to CB 11)**

(1) In section CB 19(1),—

- (a) replace “a disposal of land” with “a disposal of land by a person (**person A**)”:
- (b) in paragraph (b), replace “the person” with “person A”.

(2) Replace section CB 19(2) with:

*Exception*

(2) The exclusion does not apply when—

- (a) section CB 6(1) applies to the disposal; and
- (b) person A has engaged in a regular pattern of acquiring and disposing of land described in subsection (1).

*When regular patterns undertaken by groups of persons*

(2B) For the purposes of subsection (2), person A includes a group of persons if the requirements of subsection (2C) are met.

*Meaning of group of persons*

- (2C) For the purposes of subsection (2B), a **group of persons** means 2 or more persons if—
- (a) the persons occupy premises mainly to carry on a substantial business from them as described in subsection (1)(b), irrespective of the nature of any business carried on from the premises; and
  - (b) a person, whether or not they occupy premises as described in subsection (1)(b), has significant involvement in, or control of, the activities of all persons referred to in paragraph (a) (the **occupiers**). For the avoidance of doubt, if the person is able to direct, alone or as part of a group, the activities of the occupiers, they have significant involvement in, or control of, the activities of the occupiers.

- (3) In section CB 19, list of defined terms, insert “group of persons”.

**13 Section CB 23B amended (Land partially disposed of or disposed of with other land)**

In section CB 23B, in the words before the paragraphs, replace “CB 23” with “CB 23, CZ 39, and CZ 40 (which relate to the bright-line test for residential land)”.

**14 New heading and section CC 14 inserted**

- (1) After section CC 13, insert:

*IFRS leases***CC 14 NZ IFRS 16 leases***When this section applies*

- (1) This section applies when a person has, under section EJ 10B (IFRS leases), an amount of income for their IFRS lease.

*Amount, and timing, of income*

- (2) The person has income quantified and allocated under section EJ 10B.

Defined in this Act: amount, income, person

- (2) Subsection (1) applies for income years starting on or after 1 January 2019.

**15 Section CD 1 amended (Dividend)**

- (1) After the heading to section CD 1, insert “*Income*” as a subsection heading.
- (2) In section CD 1, insert as subsection (2):

*Timing of income: dividends other than non-cash dividends*

- (2) The income is allocated to the income year in which the person receives the dividend if the dividend is a dividend other than a non-cash dividend.

- (3) In section CD 1, list of defined terms, insert “income year” and “non-cash dividend”.
- (4) Subsections (1) and (2) apply for the 2020–21 and later income years.

**16 Section CD 43 amended (Available subscribed capital (ASC) amount)**

In section CD 43(2)(b), replace “ignoring section HB 1 (Look-through companies are transparent)” with “ignoring section HB 1 (Look-through companies are transparent), and including consideration for the issue of shares by the company as a result of the application of section CE 6 (Trusts are nominees)”.

**17 Section CE 6 amended (Trusts are nominees)**

- (1) In section CE 6, words before the paragraphs, replace “employee share scheme” with “employee share scheme or an exempt ESS”.
- (2) In section CE 6, list of defined terms, insert “exempt ESS”.

**18 New heading and section CH 13 inserted**

- (1) After section CH 12, insert:

*Feasibility expenditure clawback*

**CH 13 Feasibility expenditure clawback**

*When this section applies*

- (1) This section applies when a person—
  - (a) has deducted an amount under section DB 66(3) (Feasibility expenditure: spread deduction) for property in relation to which they abandoned further progress, with the result that the property was not completed, created, or acquired; and
  - (b) subsequently completes or creates the property, or acquires the property or similar property.

*When this section does not apply*

- (2) Despite subsection (1), this section does not apply for an income year that is more than 7 years after the last income year for which a person has deducted an amount under section DB 66(3).

*Income*

- (3) The person has, in the income year in which they subsequently complete, create, or acquire the property or similar property, income equal to the amount of the total deductions under section DB 66(3) for the property.

Defined in this Act: amount, deduction, income, income year, person

- (2) Subsection (1) applies for the 2020–21 and later income years.

**19 Section CW 26C amended (Meaning of exempt ESS)**

In section CW 26C(7)(a)(ii), replace “employer” with “employee”.

**20 Section CW 55BB amended (Minors' income, to limited extent)**

- (1) After section CW 55BB(2)(a)(iii), insert:  

(iiib) beneficiary income:
- (2) In section CW 55BB, list of defined terms, insert “beneficiary income”.
- (3) Subsection (1) applies for the 2012–13 and later income years. However, subsection (1) does not apply if, before the date of introduction of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill, a person files a return of income that ignores the application of subsection (1).

**21 Section CW 58 amended (Disposal of companies' own shares)**

- (1) In section CW 58, words before the paragraphs, replace “disposing of shares in the company” with “disposing of shares in the company, including if the company disposes of the shares as the result of the application of section CE 6 (Trusts are nominees)”.
- (2) In section CW 58(a), replace “acquired the shares” with “acquired the shares, including if the company acquired the shares as the result of the application of section CE 6”.

**22 Section CX 56 amended (Attributed income of certain investors in multi-rate PIEs)**

- (1) In section CX 56(1), delete “, other than an investor who is a natural person,”.
- (2) Repeal section CX 56(2)(d).
- (3) After section CX 56(2), insert:  

*When this section also does not apply*
- (2B) This section also does not apply for the purposes of an adjustment under section HM 36B (Calculating PIE schedular adjustments for natural person investors) when a natural person who is resident in New Zealand—
  - (a) is an investor in a multi-rate PIE; and
  - (b) derives attributed PIE income from the PIE for an income year; and
  - (c) has a rate of tax applied to their attributed PIE income that is not equal to their prescribed investor rate for the income year; and
  - (d) has an amount of PIE schedular income for the income year.

**23 Section CX 60 amended (Intra-group transactions)**

- (1) In section CX 60(1), replace “FM 8(3)” with “FM 8”.
- (2) Repeal section CX 60(1B).
- (3) In section CX 60(2), delete “(Transactions between group companies: income)”.
- (4) Subsections (1) to (3) apply for the 2019–20 and later income years.

**24 New section CZ 37 inserted (Income equalisation schemes)**

- (1) After section CZ 36, insert:

**CZ 37 Income equalisation schemes***Income*

- (1) A refund made to a person under section EZ 80 (Refund of excess deposit in main income equalisation account as consequence of election under section EZ 4B) or EZ 81 (Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B) is, to the extent to which the refund is interest payable under section EH 6 (Interest on deposits in main income equalisation account) or EH 40 (Interest on deposits in adverse event income equalisation account), income of the person and is allocated to the income year in which the person receives the refund.

*Excluded income*

- (2) A refund under section EZ 80 or EZ 81 is, to the extent to which the refund is not interest payable under section EH 6 or EH 40, excluded income.

Defined in this Act: excluded income, income, income year, interest, pay

- (2) Subsection (1) applies for the 2017–18 and later income years.

**25 New section CZ 38 inserted (Disposals of trading stock to non-associates without business purpose)**

After section CZ 37, insert:

**CZ 38 Disposals of trading stock to non-associates without business purpose**

An amount that a person is treated as deriving in an income year under section GZ 5 (Disposals of trading stock to non-associates) is income of the person for the income year.

Defined in this Act: amount, income, income year

**26 New sections CZ 39 and CZ 40 inserted**

Before Part D, insert:

**CZ 39 Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018***When this section applies*

- (1) This section applies to a person's disposal of residential land, if the person first acquires an estate or interest in the residential land on or after 29 March 2018 and section CB 6A (Disposal within 10 years: bright-line test for residential land) does not apply. However, this section does not apply to—
- (a) a person's disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of

renewal, if the person was granted the leasehold estate before 29 March 2018:

- (b) a person's disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

*Disposal within 5 years*

- (2) An amount that a person derives from disposing of residential land is income of the person, if the bright-line date for the residential land is within 5 years of—
  - (a) the date on which the instrument to transfer the land to the person was registered—
    - (i) under the Land Transfer Act 2017; or
    - (ii) under foreign laws of a similar nature to the Land Transfer Act 2017, if the land is outside New Zealand; or
  - (b) their date of acquisition of the land, if an instrument to transfer the land to the person is not registered on or before the bright-line date.

*Subdivision*

- (3) Despite subsection (2), an amount that a person derives from disposing of residential land that results from the person subdividing other land (the **undivided land**) is income of the person if the bright-line date for the residential land is within 5 years of—
  - (a) the date on which the instrument to transfer the undivided land to the person was registered—
    - (i) under the Land Transfer Act 2017; or
    - (ii) under foreign laws of a similar nature to the Land Transfer Act 2017, if the land is outside New Zealand; or
  - (b) their date of acquisition of the undivided land, if the land is not registered as described in paragraph (a) at the bright-line date.

*Leases with perpetual right of renewal*

- (4) Despite subsection (2), an amount that a person derives from disposing of a freehold estate in residential land, acquired as the owner of a leasehold estate with a perpetual right of renewal, is income if the bright-line date for the freehold estate is within 5 years of the grant of the leasehold estate.

*Estate or interest acquired upon completion of land development or subdivision*

- (5) Despite subsection (2), an amount that a person derives from disposing of an estate or interest in residential land, acquired as the result of the completion of a land development or subdivision, is income if the bright-line date for the estate or interest is within 5 years of the person entering into the agreement



under which they acquired the estate or interest upon the completion of the land development or subdivision.

*Beginning of 5-year period for transfers by registration if trustees change*

(6) If the person referred to in subsection (2)(a) or (3)(a) is a trustee of a trust who has been transferred the land or undivided land from a trustee of the trust, the date on which the instrument was registered is treated as occurring on,—

- (a) for subsection (2)(a),—
  - (i) the earliest date (the **first date**) on which an instrument to transfer the land to a trustee of the trust was registered under the relevant law referred to in the subsection, if there has been no intervening transfer to a person who is not a trustee; or
  - (ii) the first date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee:
- (b) for subsection (3)(a),—
  - (i) the earliest date (the **undivided date**) on which an instrument to transfer the undivided land to a trustee of the trust was registered under the relevant law referred to in the subsection, if there has been no intervening transfer to a person who is not a trustee; or
  - (ii) the undivided date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.

*Exception: disposal of land by executor, administrator, or beneficiary*

(7) This section does not apply to an amount that an executor or administrator described in section FC 1(1)(a) (Disposals to which this subpart applies), or a beneficiary described in section FC 1(1)(b), derives from disposing of residential land that was transferred to them on the death of a person.

*Relationship with subject matter*

(8) This section applies if none of sections CB 6 to CB 12 apply.

*A definition*

(9) In this section, **date of acquisition** means the latest date on which the person acquires the estate or interest in the residential land.

Defined in this Act: amount, bright-line date, date of acquisition, dispose, estate, income, interest, land, mortgage, person, residential land, trustee, year

**CZ 40 Main home exclusion for bright-line: acquisition on or after 29 March 2018**

*When this section applies*

(1) This section applies to a person's disposal of residential land, if the person first acquires an estate or interest in the residential land on or after 29 March 2018 and section CB 16A (Main home exclusion for disposal within 10 years) does not apply. However, this section does not apply to—

- (a) a person's disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018;
- (b) a person's disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

*Main home exclusion*

- (2) Section CZ 39 does not apply to a person (**person A**) who disposes of residential land, if, for most of the bright-line period, the land has been used predominantly for a dwelling that was the bright-line grandparented home for—
  - (a) person A;
  - (b) a beneficiary of a trust, if person A is a trustee of the trust and—
    - (i) a principal settlor of the trust does not have a main home; or
    - (ii) if a principal settlor of the trust does have a main home, it is that main home which person A is disposing of.

*When this section does not apply*

- (3) The exclusion in subsection (2) does not apply to person A if—
  - (a) the exclusion has been used by person A 2 or more times within the 2 years immediately preceding the bright-line date for the residential land;
  - (b) person A has engaged in a regular pattern of acquiring and disposing of residential land described in subsection (2).

*Person may include group of persons*

- (4) For the purposes of subsection (3)(b), in relation to residential land described in subsection (2), person A includes a group of persons if the requirements of subsection (5) are met.

*Meaning of group of persons*

- (5) For the purposes of subsection (4), a group of persons—
  - (a) means 2 or more persons when together all of the persons occupy, or have occupied, residential land described in subsection (2); and
  - (b) includes a person other than a natural person (the **non-natural person**), if another person referred to in paragraph (a) has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person is able to direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

Defined in this Act: beneficiary, bright-line date, bright-line grandparented home, bright-line period, dispose, dwelling, land, person, principal settlor, residential land, settlement, settlor, trustee, year

**27 Section DB 23 amended (Cost of revenue account property)**

- (1) Replace section DB 23(3), other than the heading, with:
- (3) Subsection (1) supplements the general permission and overrides the capital limitation and the private limitation. Subsection (2) overrides the general permission. The other general limitations still apply.
- (2) In section DB 23, list of defined terms, insert “private limitation”.

**28 New section DB 23C inserted (Revenue account property: cost of some residential land reduced)**

- (1) After section DB 23B, insert:

**DB 23C Revenue account property: cost of some residential land reduced***Cost reduced*

- (1) For the purposes of section DB 23, the cost of residential land for which income is derived under section CB 6A(6) (Disposal within 10 years: bright-line test for residential land) is *reduced* by the excluded adjustment amount calculated using the formula in subsection (2).

*Excluded adjustment formula*

- (2) The excluded adjustment amount for the purposes of subsection (1) is calculated using the formula—

$$\text{adjustment days} \div \text{total days} \times \text{cost.}$$

*Definition of items in formula*

- (3) The items in the formula in subsection (2) are defined in subsections (4) to (6).

*Adjustment days*

- (4) **Adjustment days** has the same meaning as in section CB 6A(9).

*Total days*

- (5) **Total days** has the same meaning as in section CB 6A(10).

*Cost*

- (6) **Cost** is the cost of the land.

Defined in this Act: amount, income, residential land

- (2) Subsection (1) applies to a person’s disposal of residential land if the person acquires an estate or interest in the land on or after 27 March 2021. However, subsection (1) does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, subsection (1) does not apply to—
- (a) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of

renewal, if the person was granted the leasehold estate before 27 March 2021:

- (b) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

**29 Section DB 29 amended (Apportionment when land acquired with other property)**

In section DB 29, replace “sections CB 6A to CB 14” with “any of sections CB 6A to CB 14 and CZ 39”.

**30 New heading and section DB 51C inserted**

- (1) After section DB 51B, insert:

*IFRS leases*

**DB 51C NZ IFRS 16 leases**

*When this section applies*

- (1) This section applies when a person has, under section EJ 10B (IFRS leases), an amount of a deduction for their IFRS lease.

*Amount and timing of deduction*

- (2) The person is allowed a deduction of the amount of the deduction quantified and allocated under section EJ 10B.

Defined in this Act: amount, deduction, person

- (2) Subsection (1) applies for income years starting on or after 1 January 2019.

**31 Section DB 53 amended (Attributed PIE losses of certain investors)**

- (1) Replace section DB 53(1)(b) with:

- (b) the investor is—
- (i) resident in New Zealand:
  - (ii) a trustee who has chosen a prescribed investor rate referred to in schedule 6, table 1, row 5 or 7.

- (2) After section DB 53(2), insert:

*When this section also applies*

- (2B) This section also applies for the purposes of an adjustment under section HM 36B (Calculating PIE schedular adjustments for natural person investors) when a natural person who is resident in New Zealand—

- (a) is an investor in a multi-rate PIE; and

- (b) in relation to an amount attributed to them by the PIE, has a rate of tax applied that is not equal to their prescribed investor rate for the income year; and
  - (c) has an amount of attributed PIE loss for the income year.
- (3) In section DB 53, in the list of defined terms,—
- (a) delete “zero-rated portfolio investor”;
  - (b) insert “natural person”, “prescribed investor rate”, and “resident in New Zealand”.

### 32 New heading and sections DB 66 and DB 67 inserted

- (1) After section DB 65, insert:

#### *Feasibility expenditure*

##### **DB 66 Feasibility expenditure: spread deduction**

###### *When this section applies*

- (1) This section applies for expenditure to the extent to which a person has—
- (a) incurred expenditure for an income year after the 2019–20 income year in relation to making progress towards completing, creating, or acquiring property that, if it were to be completed, created, or acquired, would be—
    - (i) depreciable property for which the depreciation rate is more than 0%;
    - (ii) revenue account property; and
  - (b) abandoned further progress in relation to the property, with the result that it is not completed, created, or acquired; and
  - (c) no deduction in relation to the expenditure under any other provision.

###### *When this section does not apply*

- (2) Despite subsection (1) this section does not apply to the extent to which expenditure is in relation to property on the following list:
- (a) land, unless it is fixed life intangible property;
  - (b) an excepted financial arrangement;
  - (c) intangible property or intellectual property, unless it is fixed life intangible property.

###### *Deduction: spread forward*

- (3) The person is allowed a deduction for the expenditure described in subsection (1), in equal proportions over a period of 5 income years starting in the income year in which they abandon further progress. However, a person is not allowed any remaining deduction portions for the income year in which they complete

or create the relevant property, or acquire the relevant property or similar property, or for later years.

*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, business, capital limitation, deduction, depreciable property, excepted financial arrangement, financial arrangement, fixed life intangible property, general limitation, general permission, income year, intellectual property, land, person

### **DB 67 Feasibility expenditure: immediate deduction**

*When this section applies*

- (1) This section applies for expenditure to the extent to which a person has—
- (a) incurred expenditure for an income year after the 2019–20 income year in relation to making progress towards completing, creating, or acquiring property that, if it were to be completed, created, or acquired, would be—
    - (i) depreciable property for which the depreciation rate is more than 0%;
    - (ii) revenue account property; and
  - (b) no deduction for the expenditure under any other provision.

*When this section does not apply*

- (2) Despite subsection (1) this section does not apply to expenditure that is in relation to property on the following list:
- (a) land, but excluding fixed life intangible property;
  - (b) an excepted financial arrangement;
  - (c) intangible property or intellectual property, but excluding fixed life intangible property.

*Deduction: immediate*

- (3) The person is allowed a deduction for the expenditure described in subsection (1), if their total expenditure described in subsection (1) in relation to all property is \$10,000 or less for the income year.

*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, business, capital limitation, deduction, depreciable property, excepted financial arrangement, financial arrangement, fixed life intangible property, general permission, general limitation, income year, intellectual property, land, person

- (2) Subsection (1) applies for the 2020–21 and later income years.

**33 Section DT 1A amended (Ring-fenced allocations)**

In section DT 1A(4), replace “sections IA 5 and IP 3” with “sections IA 5, IB 3, and IP 3”.

**34 Section ED 3 amended (Part-year tax calculations for transfers: general insurance OCR)**

In section ED 3(3), replace “new life insurance rules” with “rules for life insurers”.

**35 Section EE 40 amended (Transfer of depreciable property on or after 24 September 1997)**

- (1) After section EE 40(9), insert:

*Statutory change: exception*

- (9B) Subsection (9) does not apply when person A may, due to a change of annual rate by a statute, apply an annual rate that is more than the annual rate that the associated person applied.

- (2) In section EE 40(10), replace “Subsection (6)” with “Subsection (9)”.

- (3) Subsection (1) applies for the 2020–21 and later income years.

- (4) Subsection (2) applies for the 2008–09 and later income years.

**36 Section EH 1 amended (Income equalisation schemes)**

- (1) In section EH 1(2)(a), replace “EH 36” with “EH 36 and EZ 80”.

- (2) Subsection (1) applies for the 2017–18 and later income years.

**37 Section EH 5 amended (Main income equalisation account)**

In section EH 5(5), replace “and EH 25” with “EH 25, EZ 80, and EZ 81”.

**38 Section EH 13 amended (Refund on application)**

In section EH 13(1), replace “and EH 25” with “EH 25, EZ 80, and EZ 81”.

**39 Section EH 35 amended (Meaning of main maximum deposit)**

- (1) In section EH 35(2)(a), after “provision”, insert “, other than section EZ 4B (Cattle destroyed because of *Mycoplasma bovis*: spreading),”.

- (2) Subsection (1) applies for the 2017–18 and later income years.

**40 Section EH 36 amended (Other definitions)**

In section EH 36, in the definition of **deposit**, paragraph (b), replace “sections EH 6(2) to (4) and EH 10 to EH 33” with “sections EH 6(2) to (4), EH 10 to EH 33, and EZ 80(3) and (7)(b)”.

**41 Section EH 61 amended (Meaning of adverse event maximum deposit)**

- (1) In section EH 61(3)(a), after “provision”, insert “, other than section EZ 4B (Cattle destroyed because of *Mycoplasma bovis*: spreading),”.
- (2) In section EH 61(3)(b), replace “EH 33,” with “EH 33, EZ 4B,”.
- (3) Subsections (1) and (2) apply for the 2017–18 and later income years.

**42 Section EJ 3 amended (Spreading forward of fertiliser expenditure)**

- (1) Replace section EJ 3(5) with:

*How elections made*

- (5) An election under this section is made as follows:
  - (a) a person makes an election under subsection (2) by taking a tax position on that basis in their return of income for the income year to which they choose to allocate some or all of the expenditure:
  - (b) a person makes an election under subsection (4),—
    - (i) paragraph (a), by taking a tax position on that basis in their return of income for the income year in which the person ceases to carry on the business:
    - (ii) paragraph (b), by notifying the Commissioner of the allocation within the time within which the person is required to file a return of income for the income year in which the person ceases to carry on the business.

*Extension of time: elections under subsection (4)(b)*

- (5B) The Commissioner may extend the time limit imposed under subsection (5)(b)(ii) in any case or class of cases.

- (2) After section EJ 3(6), insert:

*Elections under subsection (2) irrevocable*

- (7) An election made under subsection (2) cannot be revoked.
- (3) In section EJ 3, list of defined terms,—
  - (a) insert “notify” and “tax position”:
  - (b) delete “notice”.
- (4) Subsections (1) and (2) apply for the 2020–21 and later income years.

**43 Section EJ 10 amended (Personal property lease payments)**

- (1) After section EJ 10(1)(c), insert:
  - (d) is not an operating lease to which section EJ 10B applies.
- (2) In section EJ 10, list of defined terms, insert “operating lease”.
- (3) Subsections (1) and (2) apply for income years starting on or after 1 January 2019.



**44 New section EJ 10B inserted (IFRS leases)**

- (1) After section EJ 10, insert:

**EJ 10B IFRS leases***When this section applies*

- (1) This section applies in relation to an operating lease of a personal property lease asset (the **IFRS lease**), if—
- (a) the person, as lessee, uses NZ IFRS 16 in their financial statements for the IFRS lease; and
  - (b) the lessor for the IFRS lease is not associated with the person; and
  - (c) the person does not sublease the personal property lease asset to another person; and
  - (d) the person irrevocably chooses to use this section for the IFRS lease, as evidenced by a return of income made in accordance with this section.

*Deduction: de minimis*

- (2) If the initial right of use asset under NZ IFRS 16 is \$100,000 or less and the remaining term of the IFRS lease under NZ IFRS 16 is 4 years or less initially and immediately after any extension starts, then the person, as lessee for the IFRS lease, is allowed, for an income year, a deduction for a positive amount, and has income for a negative amount, for the total amount recognised by the person through their profit and loss account for the IFRS lease for the income year, if the amount is in accordance with NZ IFRS 16.

*Deduction: formula*

- (3) If subsection (2) does not apply, then the person, as lessee for the IFRS lease, is allowed, for an income year, a deduction for a positive amount, and has income for a negative amount, for amounts calculated using the formula—
- $$\text{accounting amount} - \text{add-back adjustment} + \text{impairment and revaluation adjustment} - \text{make-good and direct costs adjustment}.$$

*Definition of items in formula*

- (4) In the formula in subsection (3),—
- (a) **accounting amount** is the total amount recognised by the person through their profit and loss account for the IFRS lease for the income year, if the amount is in accordance with NZ IFRS 16;
  - (b) **add-back adjustment** is the total amount of the accounting measures in subparagraphs (i) and (ii), used by the person in accordance with IFRS through their profit and loss account for the income year—
    - (i) impairment of the lease asset described in paragraph 33 of NZ IFRS 16 arising in the income year;
    - (ii) revaluation or impairment of the lease asset described in paragraph 35 of NZ IFRS 16 arising in the income year;

- (c) **impairment and revaluation adjustment** is the total amount of the add-back adjustment for any income year under paragraph (b) spread proportionally on a daily basis over the remaining income years of the lease term:
- (d) **make-good and direct costs adjustment** is the total amount of the accounting measures in subparagraphs (i) and (ii), spread proportionally on a daily basis over the remaining income years of the lease term—
  - (i) make-good costs for the lease described in paragraph 24(d) of NZ IFRS 16:
  - (ii) direct costs for the lease described in paragraph 24(c) of NZ IFRS 16, if the person chooses to apply this subparagraph, as evidenced by a return of income made in accordance with this subparagraph.

*Deduction: incurred*

- (5) The person, as lessee, is allowed a deduction for the IFRS lease for—
  - (a) make-good costs, described in subsection (4)(d)(i), for the income year that they incur the costs:
  - (b) direct costs, described in subsection (4)(d)(ii), for the income year that they incur the costs, if they have chosen to apply subsection (4)(d)(ii).

*Wash-up: income or deduction*

- (6) The person, as lessee, has a deduction for a positive amount, and has income for a negative amount, for the income year in which the IFRS lease ends or does not meet a requirement in subsection (1)(a), (b), or (c), calculated using the formula—

$$\text{IFRS deductions} - \text{IFRS income} - \text{expenditure.}$$

*Definition of items in formula*

- (7) In the formula in subsection (6),—
  - (a) **IFRS deductions** is the total amount deducted for the IFRS lease for all income years, including when the person has not applied this section:
  - (b) **IFRS income** is the total amount of income for the IFRS lease for all income years, including when the person has not applied this section:
  - (c) **expenditure** is the amount of expenditure for the IFRS lease for all income years, ignoring this section.

*Transitional deduction: retrospective treatment spread forward*

- (8) If the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, then the person is allowed a deduction for a positive amount and has income for a negative amount, spread in equal proportions over the income year and the following 4 income years, calculated using the formula—

retrospective accounting expenditure – retrospective tax adjustments –  
previous tax deductions.

*Definition of items in formula*

- (9) In the formula in subsection (8),—
- (a) **retrospective accounting expenditure** is the total amount of expenditure or loss recognised under NZ IFRS 16 for the IFRS lease for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, if the amount is in accordance with NZ IFRS 16:
  - (b) **retrospective tax adjustments** is the total amount of adjustments and deductions in subsections (4)(b), (c), and (d) and (5) for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, treating subsections (4)(b), (c), and (d) and (5) as applying for those income years:
  - (c) **previous tax deductions** is the total amount of deductions not in accordance with NZ IFRS 16 and not provided by this section, for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it.

Defined in this Act: amount, deduction, income, income year, NZ IFRS 16, operating lease, person, personal property lease asset

- (2) Subsection (1) applies for income years starting on or after 1 January 2019.

**45 Section EL 2 amended (Outline of subpart: specific provisions)**

- (1) In section EL 2(5), replace the words before paragraph (a) with “The following sections set out the properties to which the deduction allocation rule in section EL 4 does not apply:”.
- (2) Subsection (1) applies to the 2019–20 and later income years.

**46 Section EL 3 amended (Definitions for this subpart)**

- (1) In section EL 3, definition of **land sales provisions**, replace “CB 15” with “CB 15 and CZ 39”.
- (2) In section EL 3, definition of **residential rental property**,—
  - (a) in paragraph (b), replace “residential land.” with “residential land; and”:
  - (b) after paragraph (b), insert:
  - (c) does not include properties that are excluded from the application of section EL 4 by sections EL 9, EL 10, EL 11, EL 12, and EL 13.
- (3) Subsection (2) applies to the 2019–20 and later income years.

**47 Section EL 14 amended (Continuity rules for companies)**

In section EL 14, replace “sections IA 5 and IP 3” with “sections IA 5, IB 3, and IP 3”.

**48 Section EL 20 amended (Allocation of deductions related to bright-line disposals of residential land)**

- (1) In section EL 20(1)(a), replace “CB 6A (Disposal within 5 years: bright-line test for residential land)” with “CB 6A or CZ 39 (which relate to the bright-line test for residential land)”.
- (2) In section EL 20(3)(a), replace “CB 6A” with “CB 6A or CZ 39”.

**49 Section EW 15I amended (Mandatory use of yield to maturity method for some arrangements)**

- (1) In section EW 15I(1)(b)(iib), replace “NZIAS 17” with “NZ IFRS 16”.
- (2) In section EW 15I, list of defined terms, replace “NZIAS 17” with “NZ IFRS 16”.

**50 Section EW 48 amended (Anti-avoidance provisions)**

- (1) In section EW 48(1)(c), replace “person)” with “person); or”.
- (2) After section EW 48(1)(c), insert:
  - (d) sections GC 20 and GC 21 (which relate to purchase price allocation).
- (3) Subsection (2) applies for agreements for the disposal and acquisition of property entered into on or after 1 July 2021.

**51 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)**

- (1) In section EX 21(13)(j), replace “subpart IC” with “subparts IB and IC”.
- (2) In section EX 21(26), delete “the life insurance rules do not apply and”.
- (3) In section EX 21, list of defined terms, delete “life insurance rules”.

**52 Section EX 28 amended (Meaning of FIF)**

- (1) In section EX 28(c), replace “life insurance rules” with “rules for life insurers”.
- (2) In section EX 28, list of defined terms, delete “life insurance rules”.

**53 Section EY 5 amended (Part-year tax calculations)**

In section EY 5(2), replace “in the new life insurance rules and in the rules they replace” with “in the rules for life insurers”.

**54 Section EY 7 amended (Meaning of claim)**

- (1) In the heading to section EY 7(1), replace “*life insurance rules*” with “*rules for life insurers*”.

- (2) In section EY 7(1), words before paragraph (a), replace “life insurance rules” with “rules for life insurers”.
- (3) In section EY 7, list of defined terms, delete “life insurance rules”.

**55 Section EY 11 amended (Superannuation schemes providing life insurance)**

- (1) In section EY 11(8), replace “life insurance rules” with “rules for life insurers”.
- (2) In section EY 11, list of defined terms, delete “life insurance rules”.

**56 New section EZ 4B inserted (Cattle destroyed because of *Mycoplasma bovis*: spreading)**

- (1) After section EZ 4, insert:

**EZ 4B Cattle destroyed because of *Mycoplasma bovis*: spreading**

*When this section applies*

- (1) This section applies when—
  - (a) a person who owns or carries on a business has mixed-age cows on hand at the start of an income year (the **cull year**) before the 2028–29 income year that they—
    - (i) use for breeding in the ordinary course of carrying on the business; and
    - (ii) valued under the national standard cost scheme or the cost price method in the previous income year; and
  - (b) in the cull year, some or all of the person’s cattle (the **destroyed cattle**) are destroyed, because of *Mycoplasma bovis*, pursuant to—
    - (i) a power exercised under section 121 of the Biosecurity Act 1993:
    - (ii) a direction given under section 122 of that Act; and
  - (c) either,—
    - (i) if the cull year is before the 2019–20 income year, the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person has on hand at the end of the income year following the cull year is at least 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year; or
    - (ii) in any other case, the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person expects to have on hand at the end of the income year following the cull year is at least 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost

price method that the person had on hand at the start of the cull year.

*Timing of income*

- (2) The person may choose to allocate the amount of income calculated using the formula in subsection (5) equally between the 6 income years following the cull year.

*Timing of deduction*

- (3) When a person makes an election under subsection (2), part of any deduction that the person is allowed for the value that their livestock valued under subpart EC (Valuation of livestock) had at the end of the income year before the cull year, as calculated under section EC 2 (Valuation of livestock), is allocated equally between the 6 income years following the cull year. The part must reflect the value, as calculated under that section at the end of the income year before the cull year using whichever of the national standard cost scheme or the cost price method the person used in the income year before the cull year, of the same number of each class of livestock to which the amount of income allocated under subsection (2) relates.

*Business ceasing*

- (4) If the person stops owning or carrying on the business in an income year (the **cessation year**) before the seventh income year following the cull year, to the extent to which it has not been allocated to income years before the cessation year,—
- (a) the amount of income calculated using the formula in subsection (5) is allocated to the cessation year; and
- (b) the part of any deduction allocated under subsection (3) is allocated to the cessation year.

*First formula*

- (5) The formula referred to in subsections (2) and (4) is—

$$\Sigma(\text{number} \times (\text{sale proceeds} + \text{compensation}) \div \text{culled stock}).$$

*Definition of items in formula*

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

$\Sigma$

- (7)  $\Sigma$  is the symbol for the summation of the amounts calculated using the formula in the brackets that follow that symbol for each of the following classes of each of the beef cattle and dairy cattle types of livestock:
- (a) rising 1 year heifers:
- (b) rising 2 year heifers:
- (c) mixed-age cows:

(d) breeding bulls.

*Number*

(8) **Number**, for a class of livestock, is the number that is the lesser of the following 2 numbers, or the first number if they are the same:

- (a) the number that is the greater of zero and the number calculated using the formula in subsection (12):
- (b) the number of livestock of that class that—
  - (i) were breeding stock or stock that the person expected to be capable of, and intended to be used for, breeding upon reaching maturity; and
  - (ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year.

*Sale proceeds*

(9) **Sale proceeds**, for a class of livestock, is the amount of income the person derives as consideration for the disposal of livestock of that class, including their carcasses, that are part of the destroyed cattle.

*Compensation*

(10) **Compensation**, for a class of livestock, is the amount of income the person derives that is compensation to which the person is entitled under section 162A of the Biosecurity Act 1993 and that the person receives by the end of the income year following the cull year, but only to the extent to which that compensation is for—

- (a) any excess of the value of the destroyed cattle that belong to that class used in the calculation of that compensation over the amount of income described in subsection (9) for that class; and
- (b) any excess of the cost of replacement cattle of the same class that the person acquires and intends to be used for breeding over the amount of income that would, in the absence of this paragraph, be described in this subsection.

*Culled stock*

(11) **Culled stock**, for a class of livestock, is the number of livestock of that class that are part of the destroyed cattle.

*Second formula*

(12) The formula referred to in subsection (8) is—

valuation method breeding stock + culled stock – opening stock.

*Definition of items in second formula*

(13) In the formula in subsection (12), for a class of livestock,—

- (a) **valuation method breeding stock** is the number of livestock of that class that—

- (i) were breeding stock or stock that the person expected to be capable of, and intended be used for, breeding upon reaching maturity; and
  - (ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year:
- (b) **culled stock** is the number of livestock of that class that are part of the destroyed cattle:
- (c) **opening stock** is the number of livestock of that class that the person had on hand at the start of the cull year.

*How elections made*

- (14) A person makes an election under subsection (2) by notifying the Commissioner,—
- (a) if the cull year is the 2020–21 income year or an earlier income year, by the date of filing their return of income for the 2020–21 income year; or
  - (b) in any other case, by the date of filing their return of income for the cull year.

*Elections irrevocable*

- (15) An election made under subsection (2) cannot be revoked.

*When election treated as never having been made*

- (16) A person who makes an election under subsection (2) is treated as never having made the election if the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person has on hand at the end of the income year following the cull year is less than 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year.

*Relationship with sections CG 6 and DB 49*

- (17) This section overrides sections CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) and DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Defined in this Act: amount, business, class, Commissioner, cost price, deduction, income, income year, national standard cost scheme, notify, return of income

- (2) Subsection (1) applies for the 2017–18 and later income years.

**57 New cross-heading and sections EZ 80 and EZ 81 inserted**

- (1) After section EZ 79, insert:



*Income equalisation schemes***EZ 80 Refund of excess deposit in main income equalisation account as consequence of election under section EZ 4B***When this section applies*

- (1) This section applies when—
  - (a) a person makes an election under section EZ 4B(2) (Cattle destroyed because of *Mycoplasma bovis*: spreading); and
  - (b) as a consequence of the election, the person's deposits for an accounting year, less the amount of any refund made to the person for the accounting year under section EH 8 (Refund of excess deposit), are more than their main maximum deposit for the accounting year.

*Refund*

- (2) The Commissioner must refund the excess to the person from deposits the person made for the accounting year—
  - (a) to the extent to which, at the time the election is made, the person has sufficient deposits made for the accounting year in their main income equalisation account to enable the Commissioner to do so; and
  - (b) as soon as practicable after the election is made.

*Treatment of interest*

- (3) The amount of the refund must include any interest payable under section EH 6 (Interest on deposits in main income equalisation account) on a deposit from which the excess must be refunded.

*When subsection (5) applies*

- (4) Subsection (5) applies when the Commissioner is unable to refund the full amount of the excess to the person from deposits the person made for the accounting year because some or all of those deposits (the **refunded deposits**) have already been refunded to the person under section EH 13 or EH 15 (which relate to refunds from main income equalisation accounts).

*Treatment of certain deposits*

- (5) The earliest of the refunded deposits to have been refunded, to the extent necessary to make up the shortfall, are treated as—
  - (a) not having been refunded under section EH 13 or EH 15, as applicable; and
  - (b) having been refunded under this section.

*Income when refund given*

- (6) A refund under this section is,—
  - (a) to the extent to which the refund is interest payable under section EH 6, income under section CZ 37(1) (Income equalisation schemes); and

- (b) to the extent to which the refund is not interest payable under section EH 6, excluded income under section CZ 37(2).

*Modified application of section EH 6*

- (7) Section EH 6 applies to a deposit that forms all or part of the excess, other than a deposit that has been refunded before the election is made, with the following modifications:
- (a) interest is computed with daily rests from the date of acknowledgment of the receipt of the deposit until the date the election is made:
- (b) interest on the deposit accrues until the earlier of—
- (i) 31 March in each year; and
  - (ii) the date the election is made.

*Relationship with section EH 8*

- (8) This section overrides section EH 8.

Defined in this Act: accounting year, amount, Commissioner, deposit, excluded income, income, interest, main income equalisation account, main maximum deposit, pay, year

**EZ 81 Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B**

*When this section applies*

- (1) This section applies when—
- (a) a person makes an election under section EZ 4B(2) (Cattle destroyed because of *Mycoplasma bovis*: spreading); and
  - (b) as a consequence of the election, the person's adverse event deposits for an accounting year ignoring section EH 60 (Transfer of deposit), less the amount of any refund made to the person for the accounting year under section EH 42 (Refund of excess deposit), are more than their adverse event maximum deposit for the accounting year.

*Refund*

- (2) The Commissioner must refund the excess to the person from deposits the person made for the accounting year—
- (a) to the extent to which, at the time the election is made, the person has sufficient deposits made for the accounting year in their main income equalisation account to enable the Commissioner to do so; and
  - (b) as soon as practicable after the election is made.

*Treatment of interest*

- (3) The amount of the refund must include any interest payable under sections EH 6 and EH 40 (which relate to interest on deposits in income equalisation accounts) on a deposit from which the excess must be refunded.

*When subsection (5) applies*

- (4) Subsection (5) applies when the Commissioner is unable to refund the full amount of the excess to the person from deposits the person made for the accounting year because some or all of those deposits (the **refunded deposits**) have already been refunded to the person under section EH 13, EH 15, or EH 45 (which relate to refunds from income equalisation accounts).

*Treatment of certain deposits*

- (5) The earliest of the refunded deposits to have been refunded, to the extent necessary to make up the shortfall, are treated as—
- (a) not having been refunded under section EH 13, EH 15, or EH 45, as applicable; and
  - (b) having been refunded under this section.

*Income when refund given*

- (6) A refund under this section is,—
- (a) to the extent to which the refund is interest payable under section EH 6 or EH 40, income under section CZ 37(1) (Income equalisation schemes); and
  - (b) to the extent to which the refund is not interest payable under section EH 6 or EH 40, excluded income under section CZ 37(2).

*Modified application of section EH 6*

- (7) Section EH 6 applies to a deposit that forms all or part of the excess, other than a deposit that has been refunded before the election is made, with the following modifications:
- (a) interest is computed with daily rests from the date on which the deposit was transferred to the main income equalisation account until the date the election is made;
  - (b) interest on the deposit accrues until the earlier of—
    - (i) 31 March in each year; and
    - (ii) the date the election is made.

*Relationship with section EH 42*

- (8) This section overrides section EH 42.

*Some definitions*

- (9) In this section,—
- adverse event deposit** has the meaning given in section EH 62 (Other definitions)
- deposit**—
- (a) means an adverse event deposit; and

- (b) includes an adverse event deposit that has been transferred to a main income equalisation account under section EH 60; and
- (c) includes, for the purposes of subsections (3) and (7)(a) and (b), interest that is added to a deposit, as defined in paragraphs (a) and (b), under section EH 6(5) or EH 40(4)

**main income equalisation account** has the meaning given in section EH 36 (Other definitions).

Defined in this Act: accounting year, adverse event deposit, adverse event maximum deposit, amount, Commissioner, deposit, excluded income, income, interest, main income equalisation account, pay, year

- (2) Subsection (1) applies for the 2017–18 and later income years.

#### **58 Cross-heading above section EZ 80 repealed**

Repeal the cross-heading above section EZ 80, as inserted by the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019.

#### **59 Section EZ 80 renumbered (Transfers of deposits when adverse event income equalisation accounts abolished)**

Renumber section EZ 80, as inserted by the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019, as section EZ 82.

#### **60 Section EZ 81 amended (Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B)**

In section EZ 81(9), in the definition of **deposit**, paragraph (b), replace “section EH 60” with “section EH 60 or EZ 82”.

#### **61 Section FB 3A amended (Residential land)**

- (1) In section FB 3A(1), replace “and CB 16A” with “, CB 16A, CZ 39, and CZ 40”.
- (2) In section FB 3A(3), replace “section CB 6A(1) to (4B)” with “sections CB 6A(1) to (5) and CZ 39(2) to (6)”.

#### **62 Section FC 9 amended (Residential land transferred to executor, administrator, or beneficiary on death of person)**

In section FC 9(2), replace “CB 6A (Disposal within 5 years: bright-line test for residential land) does” with “CB 6A and CZ 39 (which relate to the bright-line test for residential land) do”.

#### **63 Section FE 2 amended (When this subpart applies)**

- (1) After section FE 2(1)(cc), insert:

(cd) the trustee of a trust on which a non-resident makes a settlement in or before the income year and for which 50% or more of the value of settlements made on the trust in or before the income year is from settlements made by the non-resident or by a person who is associated with the non-resident in the income year:

- (2) Repeal section FE 2(1)(d)(i).
- (3) Replace the heading to section FE 2(4) with “*Association between person and non-resident relative for subsection (1)*”.
- (4) Repeal section FE 2(4)(b).

#### 64 Section FE 6 amended (Apportionment of interest by excess debt entity)

- (1) In the heading to section FE 6(2), replace “*Formula*” with “*General formula*”.
- (2) In section FE 6(2), replace “The excess debt entity” with “An excess debt entity having a worldwide group that is not given by section FE 31D”.
- (3) In section FE 6(2), the formula, replace “(group debt percentage – threshold amount) ÷ group debt percentage” with “group debt factor”.
- (4) In section FE 6(3), after “formula”, insert “in subsection (2)”.
- (5) After section FE 6(3)(c), insert:

(cb) **group debt factor** is—

- (i) 1, if the excess debt entity’s New Zealand group has a debt percentage for the income year equal to zero; or
- (ii) the amount calculated by subtracting from 1 the amount calculated by dividing the threshold amount in paragraph (e) for the excess debt entity by the group debt percentage in paragraph (d) for the excess debt entity:

- (6) Repeal section FE 6(3)(e)(iiib).
- (7) After section FE 6(3), insert:

*Formula for excess debt entities with worldwide group given by section FE 31D*

- (3B) An excess debt entity having a worldwide group that is given by section FE 31D is treated under section CH 9 as deriving in the income year an amount of income that is the greater of zero and the amount calculated for the income year using the formula—

$$(\text{related interest} - \text{mismatch} + \text{FRD2}) \times (\text{total debt} - \text{concession}) \div \text{total debt} \times \text{group debt comparison factor.}$$

*Definition of items in formula*

- (3C) In the formula in subsection (3B),—
  - (a) **related interest** is the whole amount of the excess debt entity’s interest, incurred under financial arrangements meeting the requirements of sec-

tion FE 18(3B) for removal of a financial arrangement from the measurement of total group debt for the entity's worldwide group, that would be allowed, in the absence of subpart FH, as a deduction under any of sections DB 6 to DB 8 less—

- (i) the total amount of deductions allowed for interest payable to a company that is a member of the entity's New Zealand group under sections FE 3 and FE 28 and not included in the amount given by subparagraph (ii); and
  - (ii) the total amount of deductions allowed for interest payable under a financial arrangement excluded from the total group debt for the entity's New Zealand group under section FE 15:
- (b) **mismatch** is the total of amounts denied as deductions in the income year under section FH 3 as unrecognised amounts under section FH 3(2) and as interest under sections FH 7 and FH 11:
- (c) **FRD2** is the total amount of dividends paid by the excess debt entity for fixed-rate foreign equity or fixed-rate shares that—
- (i) are issued by the entity; and
  - (ii) are held by a person resident in New Zealand who is not a company that is a member of the entity's New Zealand group; and
  - (iii) would be removed under section FE 18(3B) from the measurement of total group debt of the entity's worldwide group if that provision applied to fixed-rate foreign equity and fixed-rate shares:
- (d) **total debt** is the total amount of the debt of the excess debt entity's New Zealand group for the income year as calculated under section FE 15, before allowing for a reduction under section FE 13:
- (e) **concession** is any reduction allowed under section FE 13 in the total group debt of the excess debt entity's New Zealand group for the income year, averaged when section FE 8(1)(a) or (b) applies:
- (f) **group debt comparison factor** is—
- (i) 1, if the excess debt entity's New Zealand group or the excess debt entity's worldwide group has a debt percentage under section FE 12(3) equal to zero for the income year; or
  - (ii) the amount calculated using the formula in subsection (3D), if subparagraph (i) does not apply.

*Formula for group debt comparison factor*

(3D) The group debt comparison factor under subsection (3C)(f)(ii) for an excess debt entity and an income year is the amount calculated using the formula—

$$(\text{New Zealand group debt percentage} - \text{threshold amount}) \div (\text{New Zealand group debt percentage} - \text{worldwide group debt percentage}).$$

*Definition of item in formula*

- (3E) In the formula in subsection (3D), **threshold amount** is the amount that is the greater of 60% and the debt percentage of the excess debt entity’s worldwide group for the income year.
- (8) In section FE 6(4), replace “subsection (2)” with “subsection (2) or (3B)” in each place.
- (9) Replace section FE 6(5), other than the heading, with:
- (5) The amount of income for which the company may make the election under subsection (4), when added to any other income that the company chooses to treat itself as deriving under subsection (4), must not exceed—
- (a) the total amount of deductions that the company has for interest in the income year, except if paragraph (b) applies; or
  - (b) the total amount of the company’s interest, incurred under financial arrangements meeting the requirements of section FE 18(3B), if the excess debt entity has a worldwide group given by section FE 31D.
- (10) In section FE 6, list of defined terms, insert “dividend”, “resident in New Zealand”, and “total worldwide debt”.
- (11) Subsections (1), (2), (4), (6), (7), (8), (9), and (10) apply for income years beginning on or after the day on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 receives the Royal assent.

**65 Section FE 12 amended (Calculation of debt percentages)**

- (1) In section FE 12(2), after “section FE 5(1)(a)”, insert “or (ab)”.
- (2) Replace section FE 12(3), other than the heading, with:
- (3) A group has a debt percentage equal to zero, except if the amount of the item group assets given by subsection (3B)(b) exceeds the amount of the item non-debt liabilities given by subsection (3B)(c), when the group has a debt percentage calculated, on a consolidated basis for an income year or accounting year as applicable, using the formula—
- $$\text{group debt} \div (\text{group assets} - \text{non-debt liabilities}).$$

**66 Section FE 22 amended (Notional offshore investment)**

In section FE 22(3)(b)(ii), replace “subparagraph (i):” with “subparagraph (i); or”.

**67 Section FH 3 amended (Payments under financial instruments producing deduction without income)**

- (1) In section FH 3(2)(a), delete “outside New Zealand”.
- (2) In section FH 3(2)(b), replace “tax law” with “taxation law”.

- (3) Subsections (1) and (2) apply for income years beginning on or after 1 July 2018.

**68 Section FH 7 amended (Payments to person outside New Zealand producing deduction without income)**

- (1) Replace section FH 7(1)(b) with:

- (b) under the taxation law of the payee jurisdiction, the amount is treated as being—
- (i) received by the payee in a country or territory outside the payee jurisdiction;
  - (ii) income of a person who is not the payee; and
- (bb) if the amount does not meet the requirements of paragraph (b)(i) and meets the requirements of paragraph (b)(ii) by being treated as the income of a person who is not the payee, the person is in the same control group as the payer or the amount is a payment under a structured arrangement; and

- (2) Replace section FH 7(1)(e) with:

- (e) if the amount meets the requirements of paragraph (b)(i), an equivalent payment by the payer would have been subject to taxation as income of the payee under the taxation law of the payee jurisdiction if the equivalent payment were treated as being received by the payee in the payee jurisdiction; and
- (f) if the amount meets the requirements of paragraphs (b)(ii) and (bb), an equivalent payment by the payer would have been subject to taxation as income of the person who is treated as deriving the income under the taxation law of the payee jurisdiction if the equivalent payment were treated as being received by the person in the country or territory where that person is resident.

- (3) Subsections (1) and (2) apply for income years beginning on or after 1 July 2018.

**69 Section FH 12 amended (Offset of mismatch amounts against surplus assessable income)**

- (1) In section FH 12(3), the formula, replace “exempt” with “deductionless”.
- (2) In section FH 12(4)(c), words before subparagraph (i), replace “**exempt**” with “**deductionless**”.
- (3) In section FH 12(4)(c)(i), after “group)”, insert “or excluded income under section CX 60 (Intra-group transactions)”.
- (4) In section FH 12(10), words before paragraph (a), delete “resident in New Zealand” where it appears.



- (5) Subsections (1) to (4) apply for income years beginning on or after 1 July 2018.

**70 Section FM 18 amended (Financial arrangements: transfer from company A to company B)**

- (1) In section FM 18(1)(c), replace “sections IA 4 and IA 5” with “sections IA 4, IA 5, and IB 3”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**71 Section FO 10 amended (When property passes on resident’s restricted amalgamation)**

In section FO 10(6), replace “5-year bright-line test or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, and CB 14” with “5-year bright-line test, the 10-year bright-line test, or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, CB 14, and CZ 39”.

**72 Section FO 12 amended (Financial arrangements: resident’s restricted amalgamation, companies in wholly-owned group)**

- (1) In section FO 12(1)(d), replace “subpart ID” with “subparts IB and ID”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**73 Section FO 17 amended (Land)**

- (1) In section FO 17(2)(a), replace “CB 6A to CB 14” with “CB 6A to CB 14, and CZ 39”.
- (2) In section FO 17(2)(b), replace “5-year bright-line test or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, and CB 14” with “5-year bright-line test, the 10-year bright-line test, or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, CB 14, and CZ 39” in each place.
- (3) In section FO 17(3),—
- (a) replace “5-year bright-line test or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, and CB 14” with “5-year bright-line test, the 10-year bright-line test, or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, CB 14, and CZ 39”;
- (b) replace “CB 6A to CB 14” with “CB 6A to CB 14, and CZ 39”.

**74 New section FZ 9 inserted (Transfers of trading stock to non-associates, donee organisations, or public authorities)**

After section FZ 8, insert:

*Trading stock***FZ 9 Transfers of trading stock to non-associates, donee organisations, or public authorities**

Section FC 2(1) (Transfer at market value) does not apply to a transfer of property if—

- (a) the property is trading stock of the transferor; and
- (b) the transferee—
  - (i) is not associated with the transferor; or
  - (ii) is associated with the transferor, but is a donee organisation or a public authority; and
- (c) the transfer is made in—
  - (i) the period that begins on 17 March 2020 and ends on 16 March 2022; or
  - (ii) a period specified by an Order in Council made under section 225ABA of the Tax Administration Act 1994.

Defined in this Act: associated, donee organisation, property, public authority, trading stock

**75 Section GB 3 amended (Arrangements for carrying forward loss balances: companies)**

- (1) Replace the heading to section GB 3 with “**Arrangements for carrying forward loss balances: companies’ ownership**”.
- (2) In section GB 3(1)(b), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) (Restrictions on companies’ loss balances carried forward: continuity of ownership)”.
- (3) In section GB 3(2), replace “section IA 5” with “section IA 5(2) and (3)”.

**76 New sections GB 3BA to GB 3BAC inserted**

- (1) After section GB 3, insert:

**GB 3BA Arrangements for carrying forward loss balances: companies’ business activities**

*When this section applies*

- (1) This section applies when—
  - (a) a share in a company (the **loss company**) or another company has been subject to an arrangement, including an arrangement—
    - (i) directly or indirectly altering rights attached to the shares:
    - (ii) to change the nature of business activities carried on by the loss company; and

- (b) the arrangement is entered into within the 2 years immediately preceding a breach of the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership) that, if they had been met, would have enabled a tax loss component of the loss company to be carried forward to a tax year in a loss balance; and
- (c) the arrangement allows the loss company to meet the requirements of section IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach) for the carrying forward of the tax loss component to the tax year; and
- (d) a purpose of the arrangement is to defeat the intent and application of section IB 3.

*Company treated as not meeting requirements*

- (2) The loss company is treated as not meeting the requirements of section IB 3(2) in relation to the tax loss component.

Defined in this Act: arrangement, business, company, loss balance, share, tax loss component, tax year

**GB 3BAB Arrangements to inject income into companies carrying forward loss balances**

*When this section applies*

- (1) This section applies when—
  - (a) a person (**person A**) enters into an arrangement with another person (**person B**); and
  - (b) person A and person B are associated persons at the time they enter into the arrangement; and
  - (c) an effect of the arrangement is that a company derives an amount of assessable income for an income year that, but for the arrangement, a person other than the company—
    - (i) would have derived; or
    - (ii) would in all likelihood have derived; or
    - (iii) might be expected to have derived; and
  - (d) tax loss components of the company are carried forward under section IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach) to the tax year corresponding to the income year; and
  - (e) the arrangement has tax avoidance as its sole or main purpose.

*Treatment of injected income*

- (2) The amount is schedular income of the company for the tax year corresponding to the income year.

Defined in this Act: amount, arrangement, assessable income, associated person, company, income year, schedular income, tax avoidance, tax loss component, tax year

**GB 3BAC Arrangements to shift expenditure from companies carrying forward loss balances***When this section applies*

- (1) This section applies when—
- (a) tax loss components of a company are carried forward under section IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach) to a tax year; and
  - (b) a person (**person A**) enters into an arrangement with another person (**person B**); and
  - (c) person A and person B are associated persons at the time they enter into the arrangement; and
  - (d) an effect of the arrangement is that, in the absence of this section, a person other than the company is allowed a deduction for an amount of expenditure or loss the person incurs that, but for the arrangement, the company—
    - (i) would have incurred in the income year corresponding to the tax year; or
    - (ii) would in all likelihood have incurred in the income year corresponding to the tax year; or
    - (iii) might be expected to have incurred in the income year corresponding to the tax year; and
  - (e) the arrangement has tax avoidance as its sole or main purpose.

*Treatment of company*

- (2) The company is treated as having incurred the amount of expenditure or loss—
- (a) in the course of carrying on a business for the purpose of deriving assessable income; and
  - (b) in the income year corresponding to the tax year.

*Treatment of other person*

- (3) The person referred to in subsection (1)(d) that is not the company is treated as not having incurred the amount of expenditure or loss.

Defined in this Act: amount, arrangement, assessable income, associated person, business, company, deduction, income year, loss, tax avoidance, tax loss component, tax year

- (2) Subsection (1) applies for the 2020–21 and later income years.

**77 Section GB 20 amended (Arrangements involving petroleum and mineral mining)**

In section GB 20(1)(a)(ii), replace “expenditure:” with “expenditure); or”.

**78 Section GB 52 amended (Arrangements involving residential land: companies’ shares)**

(1) In section GB 52(1)(a),—

- (a) replace “CB 6A(1)(a) or (b) (Disposal within 5 years: bright-line test for residential land)” with “CB 6A(1)(a) or (b), or CZ 39(2)(a) or (b) (which relate to the bright-line test for residential land)”;
- (b) replace “5 years” with “10 years or 5 years, as applicable,”.

(2) In section GB 52(1)(c), replace “CB 6A” with “CB 6A or CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

**79 Section GB 53 amended (Arrangements involving residential land: trusts)**

In section GB 53(1)(c), replace “CB 6A (Disposal within 5 years: bright-line test for residential land)” with “CB 6A or CZ 39 (which relate to the bright-line test for residential land)”.

**80 Section GC 8 amended (Insufficient amount receivable by person)**

(1) In section GC 8(2)(a), replace “arrangement” with “transfer pricing arrangement”.

(2) Replace section GC 8(2)(b) with:

- (b) the increase under subsection (1) in the amount receivable by the taxpayer—
  - (i) produces an increase in the amount that is a deduction of the other party, or would be a deduction of the other party in the absence of sections FH 5, FH 8, and FH 9 (which deny deductions arising from some mismatch situations); or
  - (ii) if the transfer pricing arrangement is an interest-free loan, would produce an increase in the income of the borrower under subpart FE (Interest apportionment on thin capitalisation) or an increase in the amount that would be a deduction of the borrower in the absence of subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements); and

**81 Section GC 16 amended (Credit rating of borrower: other than insuring or lending person)**

(1) In section GC 16(3)(c), after “40% or more”, insert “or has a debt percentage equal to zero”.

- (2) In section GC 16(4)(b), after “40% or more”, insert “, or has a debt percentage equal to zero,”.
- (3) Replace section GC 16(10)(ab) with:
  - (ab) if no member of the borrower’s worldwide group under subpart FE has long-term senior unsecured debt, the credit rating of the member of the borrower’s worldwide group with the highest credit rating, which may be determined without considering the credit ratings of members that are reasonably considered to be unlikely to have the highest credit rating, reduced by,—
    - (i) if the member has a credit rating lower than BBB+, 1 notch:
    - (ii) if the member has a credit rating of BBB+ or higher, 2 notches:

**82 Section GC 18 amended (Loan features disregarded by rules for transfer pricing arrangements)**

- (1) Replace section GC 18(4), other than the heading, with:
- (4) A term of more than 5 years for a cross-border related borrowing (the **borrowing**) may be adjusted under subsection (8) if—
  - (a) the borrower is referred to as an insuring or lending person in section GC 15(2)(a), (b), or (c), or is associated with such a person, and the exception in subsection (10) does not apply:
  - (b) the borrower is not referred to as an insuring or lending person in section GC 15(2)(a), (b), or (c), and is not associated with such a person and, for the borrowing, either or both—
    - (i) the term of the borrowing is more than the period that is the weighted average of the terms of the financial arrangements included in the total group debt of the borrower’s worldwide group under subpart FE (Interest apportionment on thin capitalisation):
    - (ii) the amount of the borrowing is more than the amount that is 4 times the total value of the financial arrangements included in the total group debt of the borrower’s worldwide group under subpart FE.
- (2) In section GC 18(5)(a)(i), delete “(Interest apportionment on thin capitalisation)”.
- (3) In section GC 18(5)(a)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (4) In section GC 18(5)(b)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (5) In section GC 18(7)(c)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.

- (6) In section GC 18(8)(a)(ii), replace “total value of loans” with “total value of loans that are cross-border related borrowing or are” in each place.
- (7) In section GC 18(8)(a)(ii), replace “associated persons and having” with “associated persons, and having”.
- (8) In section GC 18(8)(b), in the words before the paragraphs, replace “total value of loans” with “total value of loans that are cross-border related borrowing or are”.
- (9) In section GC 18(8)(b), in the words before the paragraphs, replace “associated persons and having” with “associated persons, and having”.
- (10) In section GC 18(8)(b)(i), replace “total value of loans” with “total value of loans that are cross-border related borrowing or are”.
- (11) In section GC 18(8)(b)(iii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (12) In section GC 18(9)(a)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (13) In section GC 18(9)(b), in the words before the paragraphs, replace “associated persons” with “associated persons or that are cross-border related borrowing”.
- (14) In section GC 18(9)(b)(iii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (15) Subsections (3) to (14) apply for returns of income filed on or after the introduction of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill.

### 83 New heading and sections GC 20 and GC 21 inserted

- (1) After section GC 19, insert:

#### *Purchase price allocation*

#### **GC 20 Effect of purchase price allocation agreement**

*When this section applies*

- (1) This section applies when—
  - (a) for consideration, a person (**person A**) disposes (the **disposal**), to another person (**person B**), items of property (the **purchased property**) that, for person A or for person B, fall into 2 or more of the following classes (the **classes of purchased property**)—
    - (i) trading stock, other than timber or a right to take timber:
    - (ii) timber or a right to take timber:
    - (iii) depreciable property, other than buildings:
    - (iv) buildings that are depreciable property:
    - (v) financial arrangements:

- (vi) purchased property for which the disposal does not give rise to assessable income for person A or deductions for person B; and
- (b) person A and person B have agreed, and recorded in a document, amounts of the total consideration allocated to any of the classes of purchased property before the earlier of—
  - (i) the day person A files a return of income in relation to their tax position for the purchased property:
  - (ii) the day person B files a return of income in relation to their tax position for the purchased property.

*Agreed amount enforced, at market*

- (2) A class of purchased property—
  - (a) is treated as disposed of and acquired for the relevant allocated amount; or
  - (b) may be treated by the Commissioner as disposed of and acquired for an amount that reflects the relative market value of the class of purchased property, proportional to the other classes of purchased property, if the Commissioner considers the allocated amount does not reflect that value.

*Exception: low value depreciable property*

- (3) Subsection (2)(b) does not apply to an item of purchased property that is an item of depreciable property, if—
  - (a) the original cost of the item for person A is less than \$10,000; and
  - (b) the total allocated amount for the item and for any identical property is less than \$1 million; and
  - (c) the allocated amount for the item is—
    - (i) no greater than its original cost for person A; and
    - (ii) no less than its tax book value as described in section GC 21(13)(c).

Defined in this Act: adjusted tax value, Commissioner, deduction, depreciable property, depreciation loss, dispose, financial arrangement, income, return of income, revenue account property, tax position, trading stock

## **GC 21 Purchase price allocation required: no agreement**

*When this section applies*

- (1) This section applies when—
  - (a) for consideration, a person (**person A**) disposes (the **disposal**), to another person (**person B**), items of property (the **purchased property**) that, for person A or for person B, fall into 2 or more of the following classes (the **classes of purchased property**) and the relevant person uses different income tax treatments for 2 or more of the classes of purchased property:



- (i) trading stock, other than timber or a right to take timber:
  - (ii) timber or a right to take timber:
  - (iii) depreciable property, other than buildings:
  - (iv) buildings that are depreciable property:
  - (v) financial arrangements:
  - (vi) purchased property for which the disposal does not give rise to assessable income for person A or deductions for person B; and
- (b) person A and person B have not agreed, and have not recorded in a document, amounts of the total consideration allocated to any of the classes of purchased property before the earlier of—
- (i) the day person A files a return of income in relation to their tax position for the purchased property:
  - (ii) the day person B files a return of income in relation to their tax position for the purchased property.

*When this section does not apply*

- (2) This section does not apply if—
- (a) the total consideration for the purchased property in the disposal is less than \$1 million; or
  - (b) the only purchased property in the disposal is residential land together with its chattels, and the total consideration for them is less than \$7.5 million.

*Allocated amount: person A*

- (3) If subsection (1)(a) applies for person A, person A may notify both the Commissioner and person B of the amounts (the **allocated amounts**) allocated by person A to the classes of purchased property within 3 months of the change in ownership of the purchased property. An allocated amount must reflect the greater of—
- (a) the relative market value of the relevant class of purchased property proportional to the other classes of purchased property; and
  - (b) person A's tax book value for the relevant class of property described in subsection (1)(a)(i) to (v).

*Allocated amount: person A: excess allocation*

- (4) If the total amounts that would be allocated by subsection (3) exceed the consideration payable for all of the classes of purchased property, then the excess is applied—
- (a) first, to reduce any amount allocated to the class of property described in subsection (1)(a)(vi):
  - (b) second, to reduce, pro rata, any amounts allocated to the classes of property described in subsection (1)(a)(i) to (v).

*Allocated amount: person B*

- (5) If person A does not notify person B as provided for in subsection (3), person B may notify the Commissioner and person A of the amounts (the **allocated amounts**) allocated by person B to the classes of purchased property within 6 months of the change in ownership of the purchased property. An allocated amount must reflect the relative market value of the relevant class of purchased property proportional to the other classes of purchased property.

*Non-compliance*

- (6) If person A and person B do not notify the relevant people in accordance with subsection (3) or (5), the Commissioner may allocate, to the relevant classes of purchased property (the **allocated amounts**),—
- (a) the amounts allocated by person A to the classes of purchased property:
  - (b) the amounts allocated by person B to the classes of purchased property:
  - (c) amounts that reflect the relative market value of the relevant class of purchased property, proportional to the other classes of purchased property.

*Allocated amounts enforced, at market*

- (7) A class of purchased property is treated as disposed of and acquired for the relevant allocated amount provided by subsections (3) to (6).

*No deduction until allocation*

- (8) Person B's deductions in relation to consideration for purchased property are not allocated to an income year, and are not included in person B's annual total deductions for any tax year, except to the extent provided by this section.

*Allocation when allocation notice timely*

- (9) Person B's deductions in relation to consideration for purchased property are allocated to income years in accordance with section BD 4 (Allocation of deductions to particular income years), if allocation notification occurs in the income year that the purchased property is disposed of (the **purchase year**) or if the deductions are not pre-allocation deductions.

*Allocation when allocation notice not timely*

- (10) If subsections (1)(a) and (5) apply to person B and if allocation notification occurs in an income year after the purchase year, then pre-allocation deductions are allocated to the earliest year (the **allocation year**) for which person B's return of income is not filed or due at the time of allocation notification. The allocation year may correspond to the purchase year, but the allocation year must not be earlier than the purchase year. *Example:* the purchase year for purchased property is 2025–26. 2027–28 is the income year that allocation notification occurs. At the time of allocation notification, person B's return of income for 2026–27 is not filed or due. Consequently, pre-allocation deductions are allocated to the 2026–27 income year.

*Exception: low value depreciable property*

- (11) Subsection (6)(c) does not apply to an item of purchased property that is an item of depreciable property, if—
- (a) the original cost of the item for person A is less than \$10,000; and
  - (b) the total allocated amount for the item and for any identical property is less than \$1 million; and
  - (c) the allocated amount for the item is—
    - (i) no greater than its original cost for person A; and
    - (ii) no less than its tax book value.

*Relationship with subject matter*

- (12) This section overrides a provision of this Act that expressly requires the use of the market value for purchased property, to the extent to which subsection (7) treats the relevant class of purchased property as disposed of and acquired for an amount that is provided by this section.

*Definitions*

- (13) In this section and section GC 20,—
- (a) **allocation notification** means the earliest of the following:
    - (i) the time when person B's notification of person B's allocation is provided to the Commissioner in the form prescribed by the Commissioner;
    - (ii) the time when the Commissioner's notification of the Commissioner's allocation under subsection (6) is provided to person B:
  - (b) **pre-allocation deduction** means person B's deductions in relation to consideration for purchased property that, ignoring this section, would be allocated to an income year before the income year that allocation notification occurs:
  - (c) **tax book value**, for a class of property, means the total amount that person A uses or would use, for purchased property in the class of property, in calculating person A's tax position for their income year in which the change in ownership of the purchased property occurs. The tax book value is adjusted, part-year, for a change in ownership that occurs part-year. *Example:* the tax book value of a financial arrangement is the consideration that would give an amount of income or expenditure under section EW 31 (Base price adjustment formula) equal to the income or expenditure that person A would have for the purchased property in the year of disposal for the period before the change in ownership of the

purchased property (the **part-year period**) using the relevant spreading method for the purchased property for the part-year period, pro rata.

Defined in this Act: adjusted tax value, Commissioner, deduction, diminished value, depreciable property, depreciation loss, dispose, financial arrangement, income, residential land, return of income, revenue account property, tax position, trading stock

- (2) Subsection (1) applies for agreements for the disposal and acquisition of property entered into on or after 1 July 2021.

#### 84 New sections GZ 4 and GZ 5 inserted

After section GZ 3, insert:

##### **GZ 4 Disposals of trading stock to donee organisations or public authorities**

Section GC 1 (Disposals of trading stock at below market value) does not apply to a disposal of trading stock by a person—

- (a) to a donee organisation or a public authority; and
- (b) in—
  - (i) the period that begins on 17 March 2020 and ends on 16 March 2022; or
  - (ii) a period specified by an Order in Council made under section 225ABA of the Tax Administration Act 1994.

Defined in this Act: donee organisation, public authority, trading stock

##### **GZ 5 Disposals of trading stock to non-associates**

*When this section applies*

- (1) This section applies when a person (**person A**) disposes of trading stock—
- (a) to another person (**person B**) that—
    - (i) is not associated with person A; and
    - (ii) is not a donee organisation or a public authority; and
  - (b) in—
    - (i) the period that begins on 17 March 2020 and ends on 16 March 2022; or
    - (ii) a period specified by an Order in Council made under section 225ABA of the Tax Administration Act 1994.

*Exclusion from section GC 1*

- (2) Section GC 1 (Disposals of trading stock at below market value) does not apply to the disposal.

*When subsection (4) applies*

- (3) Subsection (4) applies if—
- (a) person A does not have a business purpose for the disposal; and
  - (b) the disposal is for no consideration, or an amount that is less than,—

- (i) for trading stock held by person A at the beginning of the income year of person A in which the disposal occurs, the value of the trading stock under section EB 3 (Valuation of trading stock) at the end of the previous income year; or
- (ii) otherwise, the cost of the trading stock to person A.

*Income*

- (4) Person A is treated as deriving, in the income year of person A in which the disposal occurs, an amount calculated using the formula in subsection (5).

*Formula*

- (5) The formula is—

value – consideration received.

*Definition of items in formula*

- (6) In the formula,—

- (a) **value** is,—

- (i) for trading stock held by person A at the beginning of the income year of person A in which the disposal occurs, the value of the trading stock under section EB 3 at the end of the previous income year; or
- (ii) otherwise, the cost of the trading stock to person A:

- (b) **consideration received** is the amount of consideration paid or payable to person A in relation to the disposal.

Defined in this Act: amount, associated, donee organisation, income year, pay, public authority, trading stock

**85 Section HC 6 amended (Beneficiary income)**

- (1) After section HC 6(2)(a), insert:

- (ab) an amount of income derived by a trustee of a trust in an income year in which the trust is an approved unit trust referred to in clause 2 of the Income Tax Act (Exempt Unit Trusts) Order 1990; or

- (2) Subsection (1) applies for income years beginning on or after 1 April 2021.

**86 Section HC 10 amended (Complying trusts)**

- (1) After section HC 10(1)(ab), insert:

- (ac) the requirements of paragraph (a) are not met and the distribution meets the requirements of section HC 30(4)(ab); or

- (2) Subsection (1) applies for an assessment of a period for which a voluntary disclosure is made before, on, or after 23 March 2020.

**87 Section HC 24 amended (Trustees' obligations)**

In section HC 24, list of defined terms, delete “cash basis person”.

**88 Section HC 27 amended (Who is a settlor?)**

- (1) After section HC 27(2)(b), insert:
  - (bb) is a beneficiary of the trust who is owed money by the trustee and does not meet the requirements of subsection (6):
- (2) Replace the heading to section HC 27(6) with “*Beneficiaries owed money by trustee*”.
- (3) Replace section HC 27(6)(a) with:
  - (a) the amount owing at the end of the income year is not more than \$25,000:
- (4) In section HC 27(6)(b), before “the trustee pays”, insert “the amount owing at the end of the income year is more than \$25,000 and”.
- (5) After section HC 27(6), insert:

*Determining amount owed to beneficiary*
- (7) For the purposes of subsection (6), the amount of money owing to a beneficiary at the end of an income year is the amount of the debt at that time, adjusted to include the effect of transactions that are—
  - (a) made after the end of the income year and by the date given for the income year by section HC 6(1B); and
  - (b) included in the financial statements of the trust for the income year.

**89 Section HC 30 amended (Treatment of foreign trusts when settlor becomes resident)**

- (1) Replace section HC 30(4)(b) with:
  - (ab) as a complying trust to the extent to which the distribution consists of an amount derived by the trustee that gives rise on or after the transition date to an income tax liability meeting the requirements of subsection (4B):
  - (b) as a non-complying trust to the extent to which the distribution consists of an amount derived by the trustee that gives rise on or after the transition date to an income tax liability that is not satisfied before the distribution is made.
- (2) In section HC 30(4)(ab), after “subsection (4B)”, insert “or section HC 10(1)(ab)”.
- (3) After section HC 30(4), insert:

*Tax shortfall voluntarily disclosed*
- (4B) An income tax liability meets the requirements of this subsection if—
  - (a) the income tax liability is satisfied before the distribution is made, other than for the trust as a complying trust under an election under section HC 33; and

- (b) the income tax liability gives rise to a tax shortfall for the trustee for an income year ending before the distribution is made; and
  - (c) where a shortfall penalty arises for the tax shortfall, the shortfall penalty is satisfied before the distribution is made.
- (4) Subsections (1) and (3) apply for an assessment of a period for which a voluntary disclosure is made before, on, or after 23 March 2020.
- (5) Subsection (2) applies for income years for which an election under section HC 33 is made on or after 23 March 2020.

**90 Section HC 33 amended (Choosing to satisfy income tax liability of trustee)**

- (1) In section HC 33(5)(b),—
- (a) replace “from income derived” with “from an amount derived”;
  - (b) replace “when the income” with “when the amount”.
- (2) In section HC 33(5)(c), words before subparagraph (i), replace “from income derived” with “from an amount derived”.
- (3) In section HC 33(5)(d)(ii), replace “the income derived” with “the amount derived”.

**91 Section HM 36B amended (Calculating PIE schedular tax adjustments for natural person investors)**

- (1) Replace section HM 36B(1) to (3) with:

*When this section applies*

- (1) This section applies for the purposes of calculating the income tax liability under section BC 7 (Income tax liability of person with schedular income) of a natural person who is resident in New Zealand and is an investor in a multi-rate PIE to determine whether an adjustment must be made to the person’s income tax liability for a tax year for an amount of PIE schedular income.

*When this section does not apply*

- (1B) Despite subsection (1), this section does not apply to a natural person who derives PIE schedular income in the form of beneficiary income from a trust that is not a PIE.

*Making PIE schedular tax adjustments*

- (2) An adjustment must be made to the person’s income tax liability for the tax year for a tax credit or tax liability of the person that arises under section HM 47 when—
- (a) the person’s prescribed investor rate for the tax year has not been applied to some or all of the person’s PIE schedular income for the tax year; and
  - (b) the Commissioner has information described in subsection (3) that relates to the person and is available for the tax year.

*What must be taken into account in making adjustments*

- (3) The PIE schedular tax adjustment must take into account—
- (a) an amount of a tax credit used by the PIE to satisfy the person’s income tax liability for the tax year:
  - (b) another attributed tax credit that the person has for the tax year, including an unused tax credit under section HM 52 or HM 54, or a tax credit under section LS 4 (Tax credits for certain exiting investors):
  - (c) an amount that has not been taken into account by the PIE in the calculation for the tax year, whether it is an amount of an adjustment for a tax credit for the person for the tax year or another identified adjustment for the person under sections HM 51 to HM 55 and subpart LS (Tax credits for multi-rate PIEs and investors), as applicable:
  - (d) whether—
    - (i) the person has an attributed PIE loss in relation to which the person’s prescribed investor rate for the tax year has not been applied:
    - (ii) an adjustment has been made for the tax year under section HM 48 to the person’s investor interest, or a distribution paid to them, or a payment required from them:
    - (iii) the PIE has a tax credit for the tax year under section LS 1 (Tax credits for multi-rate PIEs) in relation to the amount of loss attributed to the investor:
    - (iv) a rate under section HM 60(6) applies for the investor for the tax year:
    - (v) the person holds their investment in the PIE jointly with another person:
  - (e) any other circumstance of which the Commissioner is aware that affects the application of the person’s prescribed investor rate to their attributed PIE income for the tax year.

*Adjustment items counted only once*

- (3B) For the purposes of this section, if a component of an item described in subsection (3) is a component of 1 or more other adjustment items, the value of the component is counted only once.
- (2) In section HM 36B(4), replace “the result of the calculation in subsection (3)” with “the adjustment”.
  - (3) In section HM 36B(5), replace “the result of the calculation in subsection (3)” with “the adjustment”.
  - (4) Replace section HM 36B(6), other than the heading, with:
  - (6) For the purposes of this section, and sections CX 56, DB 53, and LA 6, **PIE schedular income**—



- (a) means an amount of attributed PIE income that a natural person who is resident in New Zealand and is an investor in a multi-rate PIE derives under section CP 1 (Attributed income of investors in multi-rate PIEs) to which the prescribed rates of tax set out in schedule 6, clause 1 (Prescribed rates: PIE investments and retirement scheme contributions) apply; and
- (b) includes an amount of attributed PIE loss of the person under section DB 53 (Attributed PIE losses of certain investors).
- (5) In section HM 36B, in the list of defined terms,—
- (a) delete “residual income tax”;
- (b) insert “attributed PIE loss”, “Commissioner”, “investor interest”, and “pay”.

**92 Section HM 52 amended (Use of foreign tax credits by zero-rated and certain exiting investors)**

- (1) After section HM 52(2), insert:
- PIE schedular tax adjustments for natural person investors*
- (2B) Subsection (2) does not apply to an investor who is a natural person resident in New Zealand. In this case,—
- (a) the amount of the investor’s tax credit calculated under this section may only be used in making a PIE schedular tax adjustment under section HM 36B; and
- (b) the total amount of the tax credit that may be used is limited to the extent of the investor’s tax liability on their PIE schedular income.
- (2) In section HM 52, in the list of defined terms, insert “PIE schedular income”.

**93 Section HM 56 amended (Prescribed investor rates: schedular rates)**

Repeal section HM 56(2).

**94 Section IA 2 amended (Tax losses)**

- (1) In section IA 2(7), replace “For the purposes of this subpart, a” with “A”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

**95 Section IA 3 amended (Using tax losses in tax year)**

After section IA 3(5), insert:

*Relationship with section IB 3*

- (6) Section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) modifies the application of this section when the person is a company.

**96 Section IA 5 amended (Restrictions on companies' loss balances carried forward)**

- (1) Replace the heading to section IA 5 with “**Restrictions on companies' loss balances carried forward: continuity of ownership**”.
- (2) In section IA 5(4), replace “section IP 3 (Continuity breach: tax loss components of companies carried forward)” with “section IB 3 or IP 3 (which relate to the carrying forward of tax losses for companies)”.
- (3) In section IA 5(5), replace “companies” with “companies' ownership”.
- (4) Subsection (2) applies in relation to a breach of the requirements for continuity of ownership of section IA 5 if the breach occurs during the 2020–21 income year or a later income year.

**97 Section IA 7 amended (Restrictions relating to ring-fenced tax losses)**

- (1) In section IA 7(1B), after “IA 10,”, insert “and subpart IB (Carrying forward companies' loss balances: continuity of business activities)”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**98 Section IA 8 amended (Restrictions relating to schedular income)**

- (1) In section IA 8(1)(e), replace “insurers.” with “insurers; or”.
- (2) After section IA 8(1)(e), insert:
  - (f) paragraph (k), which relates to companies carrying forward loss balances.
- (3) In section IA 8, list of defined terms, insert “loss balance”.
- (4) Subsections (1) and (2) apply for the 2020–21 and later income years.

**99 New subpart IB inserted (Carrying forward companies' loss balances: continuity of business activities)**

- (1) After subpart IA, insert:

**Subpart IB—Carrying forward companies' loss balances: continuity of  
business activities**

**IB 1 Purpose**

The purpose of this subpart and sections GB 3BA to GB 3BAC (which relate to arrangements involving tax losses) is—

- (a) to enable companies to carry forward tax loss components in loss balances despite not meeting the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership), in order to reduce impediments to—
  - (i) innovation and economic growth:
  - (ii) corporate reorganisations:

- (iii) changes in the direct or indirect ownership of companies:
  - (iv) companies accessing new sources of share capital:
  - (v) companies adapting their business activities in order to grow or be resilient; but
- (b) not to encourage tax avoidance arrangements involving the acquisition of ownership interests in companies.

Defined in this Act: business, company, loss balance, ownership interest, tax avoidance arrangement, tax loss component

## **IB 2 Meaning of ownership continuity breach**

In this subpart, an **ownership continuity breach**, for a company, means a breach of the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership) that, if met, enable a tax loss component of the company to be carried forward in a loss balance.

Defined in this Act: company, loss balance, ownership continuity breach, tax loss component, tax year

## **IB 3 When tax loss components of companies carried forward despite ownership continuity breach**

*When this section applies*

- (1) This section applies when an ownership continuity breach occurs for a company.

*Tax loss components for earlier income years carried forward*

- (2) Despite the ownership continuity breach, a tax loss component arising in an earlier income year is carried forward to a tax year in a loss balance under section IA 3(4) (Using tax losses in tax year) if—
- (a) the earlier income year is the 2013–14 income year or a later income year; and
  - (b) the company does not cease to carry on business activities during the relevant period described in section IB 4 (the **business continuity period**); and
  - (c) no major change in the nature of the business activities carried on by the company occurs during the business continuity period, other than 1 or more major changes that are permitted under subsection (5); and
  - (d) subsection (3) does not apply to prevent the tax loss component being carried forward to the tax year.

*Tax loss components for earlier income years not carried forward*

- (3) The tax loss component is not carried forward to the tax year if—
- (a) before the beginning of the business continuity period,—
    - (i) the business activities carried on by the company have ceased; and

- (ii) the business activities have not been revived:
- (b) the earlier income year is the 2020–21 income year or a later income year and the company has had another ownership continuity breach—
  - (i) since the beginning of the earlier income year; and
  - (ii) in relation to which the requirements of subsection (2)(b) and (c) for the carrying forward to the tax year of the tax loss component are not met:
- (c) the earlier income year is before the 2020–21 income year and an ownership continuity breach occurred for the company in the period—
  - (i) beginning on the first day of the earlier income year; and
  - (ii) ending on the last day of the 2019–20 income year.

*Major change: factor that must be taken into account*

- (4) For the purposes of subsection (2), without limiting the factors that may be taken into account in determining whether a major change in the nature of the business activities carried on by the company has occurred during the business continuity period, the extent to which the assets used in deriving the company's assessable income have remained the same or similar over the business continuity period must be taken into account.

*Permitted major changes*

- (5) A major change in the nature of the business activities carried on by the company during the business continuity period does not breach the requirement set out in subsection (2)(c) if the major change is—
- (a) made to increase the efficiency of a business activity carried on by the company:
  - (b) made to keep up to date with advances in technology:
  - (c) caused by an increase in the scale of a business activity carried on by the company, including as a result of the company entering a new market for a product or service that it produces or provides:
  - (d) caused by a change in the type of products or services the company produces or provides that involves the company starting to produce or provide a product or service using the same, or mainly the same, assets as, or that is otherwise closely connected with, a product or service that the company produced or provided immediately before the beginning of the business continuity period.

*Avoidance arrangements*

- (6) Section GB 3BA (Arrangements for carrying forward loss balances: companies' business activities) may apply to treat a company as not meeting the requirements of subsection (2).

*A definition*

- (7) In subsection (5), **asset** does not include land other than buildings and fixtures.

Defined in this Act: assessable income, asset, business, company, income year, land, loss balance, ownership continuity breach, tax loss component, tax year

**IB 4 Business continuity period***Period*

- (1) The period referred to in section IB 3(2)(b), for an ownership continuity breach and a tax loss component of a company, is the period beginning immediately before the ownership continuity breach occurs and ending on,—
- (a) for a company for which the amount calculated using the formula in subsection (2) is 0.50 or greater, the last day of the income year that corresponds to the tax year in which the company uses the tax loss component; or
- (b) in any other case, the earlier of—
- (i) the last day of the income year that corresponds to the tax year in which the company uses the tax loss component; and
- (ii) the last day of the income year in which the fifth anniversary of the ownership continuity breach falls.

*Formula*

- (2) The formula is—
- $$\frac{\text{bad debt deductions} - \text{bad debt repayment income}}{\text{total deductions} - \text{bad debt repayment income}}$$

*Definition of items in formula*

- (3) In the formula,—
- (a) **bad debt deductions** is the total amount of deductions that the company has been allowed under section DB 31(3) (Bad debts) for income years between the 2013–14 income year and the income year corresponding to the tax year immediately preceding the ownership continuity breach, both income years inclusive, in which a tax loss component included in the company's tax loss for that tax year arose:
- (b) **bad debt repayment income** is the total amount of income that the company has under section CG 3 (Bad debt repayment)—
- (i) for income years between the earliest and the latest of the income years described in paragraph (a), both income years inclusive; and
- (ii) that relates to deductions that the company has been allowed under section DB 31(3):

- (c) **total deductions** is the total amount of deductions that the company has been allowed for the income years described in paragraph (a).

Defined in this Act: amount, company, deduction, income, income year, ownership continuity breach, tax loss, tax loss component, tax year

### **IB 5 When group companies treated as single company**

Companies that are part of the same group of companies immediately before and immediately after an ownership continuity breach occurs for each of the companies are treated as a single company for the purposes of this subpart and sections GB 3BA to GB 3BAC (which relate to arrangements involving tax losses).

Defined in this Act: company, group of companies, ownership continuity breach

- (2) Subsection (1) applies in relation to a breach of the requirements for continuity of ownership of section IA 5 if the breach occurs during the 2020–21 income year or a later income year.

### **100 Section IC 2 amended (Threshold levels for grouping tax losses in tax year)**

- (1) In the heading to section IC 2(1), after “ownership”, insert “or business activities”.
- (2) In section IC 2(1), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies)”.
- (3) Subsections (1) and (2) apply for the 2020–21 and later income years.

### **101 Section IC 5 amended (Company B using company A’s tax loss)**

- (1) In section IC 5(1)(c), after “ownership”, insert “or business activities”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

### **102 Section IC 10 amended (When companies have different balance dates)**

- (1) In section IC 10(2)(a), after “company A”, insert “, or continuity of company A’s business activities,”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

### **103 Section IC 12 amended (Bad debts or decline in value of shares)**

- (1) In section IC 12(2), replace “section IA 3(2) and IA 5” with “sections IA 3(2), IA 5, and IB 3”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

### **104 Section ID 1 amended (Treatment of tax losses by consolidated groups)**

- (1) In section ID 1(1), replace “and IC” with “to IC”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**105 Section ID 2 amended (Pre-consolidation losses: general treatment)**

- (1) In section ID 2(1), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies)”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**106 Section IE 2 amended (Treatment of tax losses by amalgamating company)**

- (1) In section IE 2(1), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies)”.
- (2) In section IE 2(3), replace “amalgamating company” with “amalgamated company”.
- (3) Subsection (2) applies for the 2008–09 and later income years.
- (4) Subsection (1) applies for the 2020–21 and later income years.

**107 Section IE 3 amended (Treatment of tax losses by amalgamated company)**

- (1) In section IE 3(1)(b), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies)”.
- (2) In section IE 3(2), replace “sections IA 5, IC 2,” with “sections IA 5, IB 3, IC 2,”.
- (3) In section IE 3(3)(a), replace “section IA 5” with “section IA 5 or IB 3”.
- (4) Replace section IE 3(5) with:

*Relationship with sections IA 3, IA 4, IA 5, and IB 3*

- (5) This section overrides—
  - (a) sections IA 3 and IA 4 (which relate to the general use of tax losses); and
  - (b) sections IA 5 and IB 3 (which relate to the carrying forward of tax losses for companies).
- (5) Subsections (1), (2), (3), and (4) apply for the 2020–21 and later income years.

**108 Section IE 4 amended (Group companies’ treatment of tax losses on amalgamation)**

- (1) In section IE 4(1)(a), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies)”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**109 Section IP 1 amended (When this subpart applies)**

In section IP 1(1)(b), replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”.

**110 Section IP 3 amended (Continuity breach: tax loss components of companies carried forward)**

In section IP 3(1), replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”.

**111 Section IQ 1 amended (General treatment)**

- (1) In section IQ 1(1)(a), replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies)”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**112 Section IQ 1B (Losses carried forward to tax year)**

- (1) In section IQ 1B, replace “(Restrictions on companies’ loss balances carried forward) applies” with “and subpart IB (which relate to the carrying forward of tax losses for companies) apply”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**113 Section IS 2 amended (Treatment of net losses resulting from certain expenditure)**

- (1) In section IS 2(2),—
  - (a) replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”;
  - (b) replace “(Arrangements for carrying forward loss balances: companies)” with “(Arrangements for carrying forward loss balances: companies’ ownership)”.
- (2) In section IS 2(5), replace “(Arrangements for carrying forward loss balances: companies) and IA 5 (Restrictions on companies’ loss balances carried forward)” with “and IA 5(2) and (3)”.

**114 Section IZ 8 amended (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year)**

- (1) In section IZ 8(1), words before paragraph (a), replace “a person who has taxable income in the 2018–19 or 2019–20 income year and” with “a person who has taxable income in the 2018–19 or 2019–20 income year, or is in a group of companies with a person who has taxable income in 1 of those years, and has”.



- (2) In section IZ 8(2), words before paragraph (a), delete “wholly-owned”.
- (3) In the heading to section IZ 8(3), replace “*wholly-owned group*” with “*group of companies*”.
- (4) In section IZ 8(3), words before paragraph (a), delete “wholly-owned”.
- (5) In section IZ 8(3)(b), before “in the absence”, insert “for a person who is a member of a wholly-owned group,”.
- (6) In section IZ 8(3)(b), replace “the other group members” with “the other members of the wholly-owned group” in each place.

**115 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)**

Replace section LA 6(1)(i) with:

- (i) section LS 4 (Tax credits for certain exiting investors) and the person is not a natural person, or is a natural person who—
  - (i) has the tax credit as a beneficiary of the trust:
  - (ii) uses the tax credit in the calculation of their PIE schedular income under section HM 36B:

**116 Section LK 5 amended (Companies’ credits carried forward)**

In section LK 5(1), replace “apply” with “and subpart IB (Carrying forward companies’ loss balances: continuity of business activities) apply”.

**117 Section LP 4 amended (Continuity rules for carrying credits forward)**

- (1) After section LP 4(2), insert:

*Carry forward of credits despite continuity breach*

- (2B) Despite a breach of continuity under subsection (2), the amount is available for use under section LP 3(4) if the amount could be carried forward to the tax year following the current year under subpart IB (Carrying forward companies’ loss balances: continuity of business activities), treating the amount as a tax loss component arising on the last day of the income year corresponding to the tax year in which the tax credit first arose.
- (2) In section LP 4, list of defined terms, insert “tax loss component”.
- (3) Subsection (1) applies in relation to a breach of continuity under section LP 4(2) if the breach occurs during the 2020–21 income year or a later income year.

**118 Section LS 3 amended (Tax credits for zero-rated investors)**

In section LS 3(3), replace “(Use of foreign tax credits by zero-rated and certain exiting investors)” with “(Use of foreign tax credits by zero-rated investors)”.

**119 Section LS 4 amended (Tax credits for certain exiting investors)**

- (1) Repeal section LS 4(3).
- (2) After section LS 4(4), insert:

*Treatment of credits for individual investors*

- (4B) Despite subsections (2) and (4), when an exiting investor who is a natural person resident in New Zealand has an available tax credit, the amount must be taken into account in an adjustment under section HM 36B (Calculating PIE schedular income adjustments for natural person investors) for the purposes of calculating the income tax liability of the person.
- (3) In section LS 4, in the list of defined terms,—
  - (a) delete “foreign income tax”;
  - (b) insert “natural person” and “resident in New Zealand”.

**120 Section LY 5 amended (Eligible research and development expenditure)**

- (1) Replace section LY 5(1)(a) with:
  - (a) means expenditure or loss, described in schedule 21B, part A, if, for the income year, the expenditure or loss—
    - (i) directly relates to a research and development activity; and
    - (ii) is required for a research and development activity; and
    - (iii) is integral to a research and development activity; but
- (2) Subsection (1) applies for the 2019–20 and later income years.

**121 Section LY 8 amended (Carry forward for remaining research and development tax credits)**

- (1) In section LY 8(2), after “met.”, insert “This subsection is subject to subsections (4B) to (6).”.
- (2) After section LY 8(4), insert:

*Breach of continuity*

- (4B) If a company’s remaining tax credit cannot be carried forward and credited because the requirements of subsection (3) are not met, the company may apply subsection (4C), or subsections (5) and (6), to determine whether some or all of its remaining tax credit is carried forward and credited.

*Carry forward of credits despite continuity breach*

- (4C) Despite a breach of continuity under subsection (3), a company may carry forward a remaining research and development tax credit arising in a tax year to a later tax year and credit it under section LY 1(3)(b) for that later tax year, if the remaining tax credit could be carried forward to that later tax year under subpart IB (Carrying forward companies’ loss balances: continuity of business activities), treating the remaining tax credit as a tax loss component arising on

the last day of the income year corresponding to the tax year in which the credit first arose.

- (3) In section LY 8(5), words before the paragraphs, replace “is” with “may be”.
- (4) In section LY 8(6), words before the paragraphs, replace “is” with “may be”.
- (5) In section LY 8, list of defined terms, insert “tax loss component”.
- (6) Subsections (1), (2), (3), and (4) apply in relation to a breach of continuity under section LY 8(3) if the breach occurs during the 2020–21 income year or a later income year.

#### **122 Section MD 12 amended (Calculation of parental tax credit)**

Repeal section MD 12(4).

#### **123 Section MF 7 amended (Orders in Council)**

- (1) Repeal section MF 7(1)(c).
- (2) In the heading to section MF 7(4), delete “*and parental tax credit*”.
- (3) In section MF 7(4), delete “and the parental tax credit”.
- (4) In section MF 7, list of defined terms, delete “parental tax credit”.

#### **124 Section OB 52 replaced (ICA imputation credit of consolidated imputation group)**

- (1) Replace section OB 52 with:

##### **OB 52 ICA transfer to consolidated imputation group**

*When this section applies*

- (1) This section applies when the nominated company of a consolidated imputation group makes an election under section OP 22(2) (Consolidated ICA transfer from group company’s ICA) for a group company.

*Debit*

- (2) The group company has an imputation debit for the amount of the credit balance that is transferred to the imputation credit account of the consolidated imputation group.

*Table reference*

- (3) The imputation debit in subsection (2) is referred to in table O2: imputation debits, row 25 (transfer to consolidated imputation group’s ICA).

*Debit date*

- (4) The debit date is the same as the credit date for the credit to the imputation credit account of the consolidated imputation group for the amount of the credit balance transferred.

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, nominated company

- (2) Subsection (1) applies for the 2008–09 and later income years.

**125 Table O2 amended (Imputation debits)**

- (1) In table O2, replace row 25 with:

25	Amount of credit balance transferred to consolidated imputation group's ICA	credit date for group's imputation credit	section OB 52
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- (2) Subsection (1) applies for the 2008–09 and later income years.

**126 Section OP 22 replaced (Consolidated ICA group company's credit)**

- (1) Replace section OP 22 with:

**OP 22 Consolidated ICA transfer from group company's ICA**

*When this section applies*

- (1) This section applies when—
- (a) the imputation credit account of a consolidated imputation group has an imputation debit described in a row of table O20: imputation debits of consolidated imputation groups; and
  - (b) the imputation credit account of a group company has a credit balance; and
  - (c) the credit balance referred to in paragraph (b) existed before the debit referred to in paragraph (a) arose in the imputation credit account of the group.

*Election*

- (2) The nominated company of the consolidated imputation group may choose to transfer some or all of the credit balance in the imputation credit account of the group company to the imputation credit account of the group.

*Restrictions*

- (3) The following restrictions apply to a transfer under subsection (2):
- (a) the consolidated imputation group and the group company must meet the requirements of section OA 8 (Shareholder continuity requirements for memorandum accounts) for the carrying forward of imputation credits until the end of the day on which the debit referred to in subsection (1)(a) arises in the imputation credit account of the group;
  - (b) credits in the imputation credit accounts of the group and all group companies must be used to reduce the debit referred to in subsection (1)(a) in the order in which the credits arose;
  - (c) the total amount of the credit balances in the imputation credit accounts of companies in the group referred to in subsection (1)(a) that may be

transferred to the imputation credit account of the group is limited to the amount of the imputation debit referred to in that paragraph.

*How elections made*

- (4) The nominated company makes an election under subsection (2) by recording the amount of the credit balance that it chooses to transfer as—
- (a) a debit in the group company’s imputation credit account; and
  - (b) a credit in the group’s imputation credit account.

*Credit*

- (5) When the nominated company makes an election under subsection (2) for a group company, the consolidated imputation group has an imputation credit for the amount of the credit balance transferred.

*Table reference*

- (6) The imputation credit in subsection (5) is referred to in table O19: imputation credits of consolidated imputation groups, row 17 (transfer from group company’s ICA).

*Credit date*

- (7) The credit date is the same as the debit date for the debit referred to in subsection (1)(a).

Defined in this Act: amount, company, consolidated imputation group, imputation credit, imputation credit account, imputation debit, nominated company

- (2) Subsection (1) applies for the 2008–09 and later income years.

**127 Table O19 amended (Imputation credits of consolidated imputation groups)**

- (1) In table O19, row 17, second column, replace “Group company’s credit” with “Amount of credit balance transferred from group company’s ICA”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

**128 Section RA 1 amended (What this Part does)**

After section RA 1(gb), insert:

- (gc) the payment of residential land withholding tax (RWLT), *see* subpart RL; and

**129 Section RC 5 amended (Methods for calculating provisional tax liability)**

- (1) In section RC 5(8), replace “life insurance rules” with “rules for life insurers”.
- (2) In section RC 5, list of defined terms, delete “life insurance rules”.

**130 Section RD 24 amended (Exemptions for non-resident contractors)**

- (1) In section RD 24(1)(a), replace “income” with “assessable income”.

- (2) In section RD 24, list of defined terms, delete “income” and insert “assessable income”.

**131 Section RE 2 amended (Resident passive income)**

- (1) Replace section RE 2(5)(b) with:
- (b) an amount—
- (i) of an association rebate that is excluded from being a dividend by section CB 34(5)(a) (Amounts derived by members from mutual associations); or
- (ii) that is payable to a person by a company and is treated as being a dividend by sections GB 23 to GB 25 (which relate to excessive remuneration):
- (2) In section RE 2, list of defined terms, insert “association rebate”.
- (3) Subsection (1) applies for the 2008–09 and later income years.

**132 Section RE 10C amended (Obligations of custodial institutions in relation to certain payments of investment income)**

- (1) In section RE 10C(3), replace “RWT” with “the amount of tax”.
- (2) Replace section RE 10C(6)(b) with:
- (b) whose activities are supervised or regulated under the Financial Markets Conduct Act 2013, the Financial Markets Authority Act 2011, the Financial Advisers Act 2008, or the Reserve Bank of New Zealand Act 1989, or are supervised or regulated under corresponding legislation in another jurisdiction.

**133 Section RF 2C amended (Meaning of non-resident financial arrangement income)**

- (1) Replace section RF 2C(6)(a) with:
- (a) the item **accumulated accruals** is equal to the item **hybrid deductions**:
- (2) Subsection (1) applies for income years beginning on or after 1 July 2018.

**134 Section RL 1 amended (Residential land withholding tax)**

In section RL 1(2)(a), replace “CB 6A (Disposal within 5 years: bright-line test for residential land) ignoring sections CB 6A(6) and CB 16A” with “CB 6A or CZ 39 (which relate to the bright-line test for residential land) ignoring sections CB 6A(13), CB 16A, CZ 39(8), and CZ 40”.

**135 Section YA 1 amended (Definitions)**

- (1) This section amends section YA 1.
- (2) In the definition of **annual branch equivalent tax account return**, replace “by a company under sections 77 and 78” with “under section 78”.

- (3) In the definition of **asset**, after paragraph (c), insert:
- (d) is defined in section IB 3(7) (When tax loss components of companies carried forward despite ownership continuity breach) for the purposes of section IB 3(5)
- (4) Replace the definition of **Australian complying superannuation scheme** with:
- Australian complying superannuation scheme** means—
- (a) an entity that is a complying superannuation fund for the purposes of Part 5, Division 2 of the Superannuation Industry (Supervision) Act 1993 (Aust) and that is regulated by the Australian Prudential Regulation Authority:
- (b) the Australian Commissioner of Tax (**ACT**), in the ACT's capacity under the Superannuation (Unclaimed Money and Lost Members) Act 1999 (Aust)
- (5) Replace the definition of **bright-line date** with:
- bright-line date** means, for a disposal of residential land,—
- (a) the earliest of—
- (i) the date that the person enters into an agreement for the disposal:
- (ii) the date on which the person makes a gift of the residential land:
- (iii) the date on which the person's residential land is compulsorily acquired under any Act by the Crown, a local authority, or a public authority:
- (iv) if there is a mortgage secured on the residential land, the date on which the land is disposed of by or for the mortgagee as a result of the mortgagor's defaulting; or
- (b) if none of paragraph (a)(i) to (iv) apply, the date on which the estate or interest in the residential land is disposed of
- (6) Insert, in appropriate alphabetical order:
- bright-line grandparented home** means, for a person, the 1 dwelling—
- (a) that is mainly used as a residence by the person (a **home**); and
- (b) with which the person has the greatest connection, if they have more than 1 home
- (7) Insert, in appropriate alphabetical order:
- bright-line period** means, for a person and residential land, the period beginning with the relevant date described in, as applicable—
- (a) section CB 6A(1) to (5) (Disposal within 10 years: bright-line test for residential land), and ending with the bright-line date for the residential land:

- (b) section CZ 39(2) to (6) (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018), and ending with the bright-line date for the residential land
- (8) In the definition of **business premises**, after “expenditure”, add “and the land sales provisions”.
- (9) In the definition of **claim**, replace “life insurance rules” with “rules for life insurers”.
- (10) In the definition of **class**, replace “and in” with “and in section EZ 4 (Valuation of livestock bailed or leased as at 2 September 1992), and in”.
- (11) In the definition of **class**, replace “section EZ 4 (Valuation of livestock bailed or leased as at 2 September 1992)” with “sections EZ 4 and EZ 4B (which are terminating provisions relating to livestock)”.
- (12) In the definition of **continuity period**, paragraph (a), replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”.
- (13) In the definition of **continuity provisions**,—
- (a) paragraph (a), replace “(Arrangements for carrying forward loss balances: companies)” with “(Arrangements for carrying forward loss balances: companies’ ownership)”:
- (b) paragraph (d), replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”.
- (14) Insert, in appropriate alphabetical order:
- contractor labour** means, for the purposes of schedule 21B, expenditure by a person’s contractor on the salary and wages of the contractor’s employees
- (15) In the definition of **cost price**, paragraph (a), replace “subpart EC (Valuation of livestock)” with “subpart EC (Valuation of livestock), and in sections EZ 5, EZ 6, FB 17, and HG 10 (which relate to livestock)”.
- (16) In the definition of **cost price**, paragraph (a), replace “and HG 10” with “HB 10, and HG 10”.
- (17) In the definition of **cost price**, paragraph (a), replace “EZ 5” with “EZ 4B, EZ 5”.
- (18) In the definition of **deposit**, after paragraph (c), insert:
- (d) is defined in section EZ 81 (Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B) for the purposes of that section
- (19) In the definition of **dispose**, after paragraph (h), insert:
- (i) in sections GC 20 and GC 21 (which relate to purchase price allocation) includes all events in paragraphs (a) to (h) of this definition and the grant, amendment, or transfer of a property right or interest



- (20) In the definition of **dispose**, replace “CB 22” with “CB 22, CZ 39”.
- (21) In the definition of **dividend**, paragraph (e),—
- (a) replace “treated as a dividend under section CB 34(5),” with “excluded from being a dividend under section CB 34(5) (Amounts derived by members from mutual associations) or treated as a dividend under section”:
  - (b) replace “mutual associations, family-owned businesses,” with “family-owned businesses”.
- (22) In the definition of **dwelling**, replace paragraph (a) with:
- (a) means any place configured as a residence or abode, whether or not it is used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:
  - (ab) despite paragraph (a), for the purposes of subpart EE and the definitions of commercial building, commercial fit-out, and residential building, means any place used predominantly as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:
- (23) In the definition of **early life regime application day**, replace “the new life insurance rules, as provided in” with “the amendments to the rules for life insurers made by”.
- (24) Insert in the appropriate alphabetical order:
- excluded day** is defined in section CB 6A (Disposal within 10 years: bright-line test for residential land) for the purposes of that section
- (25) Replace the definition of **group of persons** with:
- group of persons**—
- (a) includes 1 person:
  - (b) is defined in section CB 16A(5) (Main home exclusion for disposal within 5 years) for the purposes of that section:
  - (c) is defined in section CB 16(5) (Residential exclusion from sections CB 6 to CB 11) for the purposes of that section:
  - (d) is defined in section CB 19(2C) (Business exclusion from sections CB 6 to CB 11) for the purposes of that section
- (26) In the definition of **initial provisional tax liability**, after paragraph (b)(i), insert:
- (ib) if 1 or more of the income years 2016–17, 2017–18, 2018–19, and 2019–20 (the **transitional years**) are included in the 4 previous tax years, they did not have residual income tax of more than \$2,500 in the included transitional years; and

- (27) In the definition of **lease**, paragraph (d), replace “EJ 10 (Personal property lease payments)” with “EJ 10 (Personal property lease payments), EJ 10B (IFRS leases)”.
- (28) In the definition of **loss balance**, paragraph (b),—
- (a) replace “section IA 5 (Restrictions on companies’ loss balances carried forward)” with “section IA 5(2) and (3) (Restrictions on companies’ loss balances carried forward: continuity of ownership)”;
  - (b) after “1992),”, insert “or IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach),”.
- (29) In the definition of **main home**, in paragraph (a), delete “mainly”.
- (30) In the definition of **minimum market value interest**, paragraph (a), replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”.
- (31) In the definition of **minimum voting interest**, paragraph (a), replace “(Restrictions on companies’ loss balances carried forward)” with “(Restrictions on companies’ loss balances carried forward: continuity of ownership)”.
- (32) In the definition of **non-refundable tax credit**, in paragraph (fb), replace “beneficiary of a trust” with “beneficiary of a trust, but this paragraph does not apply to the extent to which the tax credit is taken into account in an adjustment under section HM 36B(2) (Calculating PIE schedular income adjustments for natural person investors)”.
- (33) Repeal the definition of **NZIAS 17**.
- (34) Insert, in appropriate alphabetical order:
- NZ IFRS 16** means New Zealand Equivalent to International Financial Reporting Standard 16, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place
- (35) Insert, in appropriate alphabetical order:
- ownership continuity breach** is defined in section IB 2 (Meaning of ownership continuity breach) for the purposes of subpart IB (Carrying forward companies’ loss balances: continuity of business activities)
- (36) In the definition of **principal settlor**, replace “section EL 9 (Main home exclusion)” with “sections CZ 40 and EL 9 (which relate to the main home exclusion)”.
- (37) Replace the definition of **residential land** with:
- residential land**—
- (a) means—
    - (i) land that has a dwelling on it, unless the land is farmland, or is used predominantly as business premises:

- (ii) land for which the owner has an arrangement that relates to erecting a dwelling, unless the land is farmland or is used predominantly as business premises:
- (iii) bare land that may be used for erecting a dwelling under rules in the relevant operative district plan, unless the bare land is farmland or is used predominantly as business premises; and
- (b) includes land that has a dwelling on it, if it is used by a person predominantly as business premises for a business of supplying accommodation and the dwelling is not a main home for the person or 1 or more other persons referred to in section CB 16A(2) (Main home exclusion for disposal within 10 years)
- (38) In the definition of **residual income tax**, repeal paragraph (f).
- (39) In the definition of **schedular income**, after paragraph (j), insert:
- (k) income to which section GB 3BAB (Arrangements to inject income into companies carrying forward loss balances) applies
- (40) Repeal the definition of **specified living allowance**.
- (41) In the definition of **trading stock**, paragraph (a), replace “(b),” with “(b), (bb), (bc),”.
- (42) In the definition of **trading stock**, paragraph (b), replace “and GC 1 to GC 3 (which relate to the disposal of trading stock for inadequate consideration)” with “GC 1 to GC 3 (which relate to the disposal of trading stock for inadequate consideration), and GC 20 and GC 21 (which relate to purchase price allocation)”.
- (43) In the definition of **trading stock**, after paragraph (b), insert:
- (bb) in section FZ 9 (Transfers of trading stock to non-associates, donee organisations, or public authorities), means property that is trading stock under section EB 2 except that it includes—
- (i) livestock not used in a dealing business:
- (ii) consumable aids to be used in the process of producing trading stock:
- (bc) in sections GZ 4 and GZ 5 (which relate to the disposal of trading stock to non-associates, donee organisations, or public authorities), has the meaning given in paragraph (b) except that it does not include—
- (i) timber or a right to take timber:
- (ii) land whose disposal would produce income under any of sections CB 6A to CB 15:
- (44) In the definition of **trading stock**, in paragraph (b)(v), replace “CB 15” with “CB 15 and CZ 39”.
- (45) Subsection (21) applies for the 2008–09 and later income years.

- (46) Subsections (26), (28), and (39) apply for the 2020–21 and later income years.
- (47) Subsection (37) applies—
- (a) for purposes of the rules related to the bright-line test for residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, subsection (37) does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, subsection (37) does not apply to—
- (i) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 27 March 2021:
- (ii) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision:
- (b) for other purposes, for the 2021–22 and later income years.

**136 Schedule 21 amended (Excluded activities for research and development activities tax credits)**

- (1) Repeal schedule 21, part A, clause 5.
- (2) Repeal schedule 21, part B, clause 5.
- (3) Subsections (1) and (2) apply for the 2019–20 and later income years.

**137 Schedule 21B amended (Expenditure or loss for research and development tax credits)**

- (1) Replace schedule 21B, part B, clause 2 with:
- 2 Expenditure or loss incurred in acquiring property that is depreciable property or that would be depreciable in the absence of an election under section EE 8, but ignoring expenditure or loss incurred in making the property.
- (2) Replace schedule 21B, part B, clause 3 with:
- 3 Expenditure or loss, other than amounts for employees or contractor labour in relation to core research and development activities, to the extent to which the expenditure or loss contributes to the cost of tangible depreciable property, or tangible property that would be depreciable in the absence of an election under section EE 8, but ignoring expenditure or loss for property if the property is used solely in performing a research and development activity, is intended to be used in the future solely in performing a research and development activity, and the expenditure or loss is for a core research and development activity.

- (3) After schedule 21B, part B, clause 3, insert:
- 3B Expenditure or loss, other than amounts for employees or contractor labour in relation to core research and development activities, incurred by—
- (a) a petroleum miner:
  - (b) a mineral miner:
  - (c) a person that would be a mineral miner if geothermal energy and all minerals were included on the list of listed industrial minerals in section CU 8.
- Expenditure or loss is ignored for the purposes of this clause to the extent to which the expenditure or loss contributes to the cost of tangible depreciable property, if the property is used solely in performing a research and development activity, is intended to be used in the future solely in performing a research and development activity, and the expenditure or loss is for a core research and development activity.
- (4) Replace schedule 21B, part B, clause 10 with:
- 10 Expenditure or loss to acquire land.
- (5) In schedule 21B, part B, clause 13, replace “Professional fees” with “Expenditure or loss”.
- (6) After schedule 21B, part B, clause 13, insert:
- 13B Expenditure or loss incurred in performing corporate governance activities.
- (7) After schedule 21B, part B, clause 20, insert:
- 20B Expenditure or loss incurred in decommissioning.
- 20C Expenditure or loss incurred in remediating land.
- (8) In schedule 21B, part B, clause 21,—
- (a) replace “terms of, required by, or otherwise related to” with “terms of, or required by,”:
  - (b) replace “scheme.” with “scheme. Nor does it include an amount related to a Callaghan Innovation project grant, to the extent to which the amount exceeds the estimated cost of the project specified in the contract for the Callaghan Innovation project grant.”
- (9) Subsections (1), (2), (3), (4), (5), (6), (7), and (8) apply for the 2019–20 and later income years.

**138 Schedule 29 amended (Portfolio investment entities: listed investors)**

- (1) In schedule 29, part A, repeal item 7B.
- (2) In schedule 29, part A, after item 9, insert:
  - 11 A lines trust.
  - 12 A company in which a local authority or a lines trust holds—

- (a) a voting interest of 100%; and
- (b) if a market value circumstance exists for the company, a market value interest of 100%.

**139 Schedule 32 amended (Recipients of charitable or other public benefit gifts)**

- (1) In schedule 32, insert, in appropriate alphabetical order, “Active Hearts Foundation”, “Kiwilink”, and “Shimshal Trust”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**140 Schedule 36 amended (Government enterprises)**

In schedule 36, part A, insert, in appropriate alphabetical order, “Housing New Zealand Build Limited”.

**141 Income Tax Act 2007: aligning nomenclature with Social Security Act 2018**

The Income Tax Act 2007 is amended as set out in schedule 1.

**142 Other enactments: consequential amendments aligning nomenclature**

The enactments specified in schedule 2 are amended as set out in that schedule.

### Part 3

#### Amendments to other enactments

##### *Tax Administration Act 1994*

**143 Tax Administration Act 1994**

Sections 144 to 180 amend the Tax Administration Act 1994.

**144 Section 3 amended (Interpretation)**

- (1) This section amends section 3(1).
- (2) In the definition of **deferrable tax**,—
  - (a) in paragraph (c), replace “2007” with “2007:”;
  - (b) after paragraph (c), insert:
    - (d) an amount of tax for which the person’s liability depends on the liability of another person (the **disputant**) for an amount of tax and the disputant has a current dispute with the Commissioner concerning the disputant’s liability after making a competent objection or challenge that meets the requirements of paragraph (a) or (b) for the disputant or entering an agreement with the Commissioner referred to in section RP 17B(3)(bb) of the Income Tax Act 2007
- (3) Insert, in appropriate alphabetical order:

**New Zealand superannuation qualification age** means the age at which a person becomes entitled to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001

- (4) In the definition of **tax**,—
- (a) replace paragraph (a)(iii)(CC) with:  
(CC) KiwiSaver Act 2006 employer contributions:
  - (b) in paragraph (a)(iii)(CD), replace “101I(5)” with “141(5)”:
  - (c) repeal paragraph (a)(viii):
  - (d) after paragraph (a)(xiv), insert:  
(xv) a registration fee referred to in section 59B:  
(xvi) a return filing fee referred to in section 59D:
  - (e) in paragraph (cc), replace “for the purposes of sections 6, 6A,” with “for the purposes of Part 10B, and sections 6, 6A,”.
- (5) In the definition of **tax law**, replace paragraph (a) with:
- (a) a provision of an Inland Revenue Act other than the Unclaimed Money Act 1971, or an Act that such an Inland Revenue Act replaces:

#### 145 Section 4A amended (Construction of certain provisions)

Replace section 4A(3)(bc) with:

- (bc) amounts of KiwiSaver Act 2006 employer contributions paid or to be paid to the Commissioner, including an amount of compulsory employer contributions unpaid, specified in a notice under section 141(5) of that Act; or

#### 146 Section 17B amended (Commissioner may require information or production of documents)

- (1) In section 17B(2), replace “17, 17G, and 17H” with “17 and 17G to 17H”.
- (2) In section 17B(5), replace “17F to 17K” with “17F, 17G, and 17H to 17K”.

#### 147 Section 17C amended (Commissioner’s powers in relation to documents)

- (1) In section 17C(1), replace “17B or 17G” with “17B, 17G, or 17GB”.
- (2) In section 17C(1), replace “provided under section 17B, 17G, or 17GB, or produced under section 17H” with “or produced under 1 or more of sections 17B, 17GB, 17H(6), and 17I”.
- (3) In section 17C(5), delete “provided, accessed, or”.

#### 148 Section 17E amended (Information or documents treated as in persons’ knowledge, possession, or control)

- (1) In section 17E(1), replace “17B(1),” with “17B(1), 17GB(1),”.
- (2) In section 17E(2), replace “17B(1)” with “17B(1), 17GB(1),”.

**149 Section 17H amended (Court may make order for provision of information)**

In section 17H(1), replace “an information demand under section 17B” with “a notice under section 17B or 17GB.”

**150 Section 20 amended (Privilege for confidential communications between legal practitioners and their clients)**

- (1) In section 20(1), replace “17H, and 17I” with “17GB to 17I”.
- (2) In section 20(4), replace “17H, and 17I” with “17GB to 17I”.

**151 Section 20B amended (No requirement to disclose tax advice document)**

In section 20B(1), replace “17E, 17H, and 17I” with “17E and 17GB to 17I”.

**152 Section 20D amended (Claim that document is tax advice document)**

- (1) In section 20D(4)(a), replace “or 17C” with “and 17C”.
- (2) In section 20D(4)(b), replace “17C” with “17GB”.

**153 Section 20F amended (Person must disclose tax contextual information from tax advice document)**

- (1) In section 20F(2)(a), replace “or 17C” with “and 17C”.
- (2) In section 20F(2)(b), replace “17C” with “17GB”.

**154 Section 25E amended (Who must provide investment income information to Commissioner)**

- (1) In section 25E(1)(f), delete “, other than a superannuation fund or retirement savings scheme.”.
- (2) Repeal section 25E(1)(g).

**155 Section 25J amended (Information on attributed PIE income: non-locked-in funds)**

In section 25J, replace the section heading with “**Information on attributed PIE income**”.

**156 Section 25K repealed (Information on attributed PIE income: locked-in funds)**

Repeal section 25K.

**157 Section 25MB amended (Information from custodial institutions)**

Replace section 25MB(7)(b) with:

- (b) whose activities are supervised or regulated under the Financial Markets Conduct Act 2013, the Financial Markets Authority Act 2011, the Financial Advisers Act 2008, or the Reserve Bank of New Zealand Act 1989,



or are supervised or regulated under corresponding legislation in another jurisdiction.

**158 Section 54C amended (Information in relation to payment of RLWT)**

In section 54C(1), in the words before the paragraphs, replace “is within 5 years” with “is either within 5 years if section CZ 39 applies, or within 10 years if section CB 6A applies,”.

**159 Section 54D amended (Information in relation to repayment of RLWT)**

In section 54D(1)(b), replace “section CB 16A” with “section CB 16A or CZ 40”.

**160 Section 54E amended (RLWT certificate of exemption)**

In section 54E(4), replace “section CB 16A” with “section CB 16A or CZ 40”.

**161 Section 57B amended (Return requirements for multi-rate PIEs)**

- (1) In section 57B(1), replace “Sections 25J and 25K set out” with “Section 25J sets out”.
- (2) In section 57B(2)(a)(ii), replace “required under sections 25J and 25K, as applicable” with “required under section 25J”.

**162 Section 59BA amended (Annual return for trusts)**

- (1) Replace section 59BA(1) with:

- (1) A trustee of a trust who derives assessable income for a tax year must file a return for the tax year of all income derived in the corresponding income year by the trustee as trustee of the trust.

- (2) In section 59BA(2), replace the words before paragraph (a) with “A trustee who is required to file a return for a tax year under subsection (1) and does not meet the requirements of subsection (3) must make the return in the form prescribed by the Commissioner and include, unless otherwise required by the Commissioner,—”.

- (3) Replace section 59BA(3) with:

- (3) A trustee of a trust who is required to file a return for a tax year under subsection (1) is not required to file a return in the form required by subsection (2) if—

- (a) the trustee is excluded from the requirement to make a return by section 43B (which relates to non-active trusts):
- (b) the trustee is required to make a return by section 59D (which relates to foreign trusts):
- (c) the trustees of the trust are incorporated as a board under the Charitable Trusts Act 1957:
- (d) the trust is a charitable trust registered under the Charities Act 2005:

- (e) the trustee is eligible under section HF 2 of the Income Tax Act 2007 to choose under section HF 11 of that Act to become a Maori authority:
  - (f) the trust is a widely-held superannuation fund, as defined in section YA 1 of the Income Tax Act 2007:
  - (g) the trust is an employee share scheme that is an exempt ESS, as defined in section YA 1 of the Income Tax Act 2007:
  - (h) the trustee is a debt funding special purpose vehicle, as defined in section YA 1 of the Income Tax Act 2007:
  - (i) the trustee is a lines trust established under the Energy Companies Act 1992.
- (4) After section 59BA(4), insert:
- (5) The Commissioner may vary the requirements set out in subsection (2) for a trustee or class of trustees.
- (6) A variation under subsection (5) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**163 Section 61 amended (Disclosure of interest in foreign company or foreign investment fund)**

In section 61(1C), replace “section 25J or 25K, as applicable” with “section 25J”.

**164 Section 68CC amended (Research and development tax credits: greater than \$2 million approval)**

- (1) In section 68CC(2)(b)(iv), replace “has” with “the person has”.
- (2) In section 68CC(3), replace “7th day of the 2nd month after the end of the first income year.” with “last day of the 6th month before the end of the first income year (**application date**). The Commissioner may accept and approve an application after the application date if the taxpayer has changed the end date of their income year due to a change in their balance date for the first income year.”
- (3) Subsection (1) applies for the 2020–21 and later income years.
- (4) Subsection (2) applies for the 2021–22 and later income years.

**165 Section 89D amended (Taxpayers and others with standing may issue notices of proposed adjustment)**

- (1) In section 89D(1), replace “subsection (2)” with “subsections (1B) and (2)”.
  - (2) After section 89D(1), insert:
- (1B) If the assessment by the Commissioner is an amended assessment, the taxpayer’s entitlement to dispute the assessment is limited to disputing—
- (a) a liability imposed by the assessment that was not imposed by the assessment being amended:

- (b) an increase imposed by the assessment in a liability that was imposed by the assessment being amended.

**166 Section 89DA amended (Taxpayer may issue notice of proposed adjustment for taxpayer assessment)**

After section 89DA(1), insert:

- (1B) If the assessment by the taxpayer is an amended assessment, the taxpayer's entitlement to dispute the assessment is limited to disputing—
  - (a) a liability imposed by the assessment that was not imposed by the assessment being amended;
  - (b) an increase imposed by the assessment in a liability that was imposed by the assessment being amended.

**167 Section 91C amended (Taxation laws in respect of which binding rulings may be made)**

After section 91C(1)(d), insert:

- (db) the Unclaimed Money Act 1971; or

**168 Section 108 amended (Time bar for amendment of income tax assessment)**

Replace section 108(1E) with:

- (1E) Despite subsection (1), the Commissioner may not amend an assessment so as to increase an amount of research and development tax credit if 1 year has passed from the latest date to provide a return of income for the relevant tax year, except if the increase is to take into account—
  - (a) a notice of proposed adjustment initiated by a taxpayer in accordance with section 113E;
  - (b) a request under section 113 initiated by a taxpayer in accordance with section 113E.

**169 Section 120B amended (Persons excluded)**

In section 120B, replace paragraph (bb) with:

- (bb) an employer in relation to amounts of compulsory employer contributions unpaid and specified in a notice under section 141(5) of the Kiwi-Saver Act 2006:

**170 Section 120KBB amended (Interest for most standard method and some estimation method provisional taxpayers)**

In the heading to section 120KBB, delete “and some estimation method”.

**171 Section 139A amended (Late filing penalty for certain returns)**

- (1) In section 139A(1), delete “the reconciliation statement required to be provided under regulation 3 of the Accident Rehabilitation and Compensation Insurance

(Earnings Definitions) Regulations 1992 or regulation 15 of the Accident Insurance (Premium Payment Procedures) Regulations 1999 or any successor to that regulation made under the Accident Compensation Act 2001,”.

(2) Repeal section 139A(2)(a)(iii).

**172 Section 139AB amended (Penalty for member of large multinational group failing to provide information)**

In section 139AB(1)(a), replace “section 17(1CB)” with “section 17E(2)”.

**173 Section 157 amended (Deduction of tax from payments due to defaulters)**

(1) In section 157(10), definition of **income tax**, paragraph (i), replace “101I(5)” with “141(5)”.

(2) After section 157(10), definition of **income tax**, paragraph (k), insert:

(1) KiwiSaver Act 2006 employer contributions

**174 New section 173V inserted (Transfer of unclaimed money on request)**

After section 173U, insert:

**173V Transfer of unclaimed money on request**

If a taxpayer is entitled to a payment from the Commissioner of unclaimed money under the Unclaimed Money Act 1971, the taxpayer or their agent may request the Commissioner to transfer all or part of the unclaimed money to a tax type and period of the taxpayer as if the amount were excess tax.

**175 Section 184A amended (Refund of tax paid in excess made by direct credit to bank account)**

After section 184A(5)(i), insert:

(j) an amount of the problem gambling levy payable under—

(i) Part 4, subpart 4 of the Gambling Act 2003 and regulations made under section 319 of that Act:

(ii) section 101 of the Racing Industry Act 2020.

**176 New section 225ABA inserted (Orders in Council: periods for purposes of certain provisions of Income Tax Act 2007 relating to disposals of trading stock)**

After section 225A, insert:

**225ABA Orders in Council: periods for purposes of certain provisions of Income Tax Act 2007 relating to disposals of trading stock**

(1) This section provides a power to extend the period, or specify another later period, during which certain provisions of the Income Tax Act 2007 apply in relation to certain disposals of trading stock.

- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue,—
- (a) replace the date on which the period specified in 1 or more of sections FZ 9(c)(i), GZ 4(b)(i), and GZ 5(1)(b)(i) of the Income Tax Act 2007 ends with another date that is later than the one it replaces;
  - (b) specify a period for the purposes of 1 or more of sections FZ 9(c)(ii), GZ 4(b)(ii), and GZ 5(1)(b)(ii) of that Act.
- (3) An Order in Council under subsection (2)(a) to replace the existing end date of a period must be made before that date.
- (4) The Minister of Revenue may recommend the making of an Order in Council under subsection (2)(a) only if satisfied that people in New Zealand are likely to continue, beyond the expiry of the existing period, to be significantly adversely affected by COVID-19.
- (5) The period specified by an Order in Council made under subsection (2)(b) may begin before the date on which the Order in Council comes into force.
- (6) The Minister of Revenue may recommend the making of an Order in Council under subsection (2)(b) only if satisfied that—
- (a) an event has occurred that meets the requirements of paragraphs (a) and (b) of the definition of emergency in section 4 of the Civil Defence Emergency Management Act 2002; and
  - (b) people in New Zealand were being significantly adversely affected as a consequence of the event at the beginning of the period that is to be recommended is specified; and
  - (c) people in New Zealand—
    - (i) were being significantly adversely affected as a consequence of the event at the end of the period that is to be recommended is specified; or
    - (ii) are likely to continue to be significantly adversely affected as a consequence of the event at least until the end of the period that is to be recommended is specified.
- (7) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**177 New section 227H inserted (Transitional provision relating to annual return for trusts)**

After section 227G, insert:

**227H Transitional provision relating to annual return for trusts**

A variation under section 59BA(5) is a disallowable instrument if the variation is made in the period from the date on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 receives

the Royal assent to the date on which Part 3 of the Legislation Act 2019 comes into force.

**178 Schedule 1 amended (Inland Revenue Acts)**

In schedule 1, after “Taxation Review Authorities Act 1994”, insert “Unclaimed Money Act 1971”.

**179 Schedule 7 amended (Disclosure rules)**

After schedule 7, part A, clause 13B, insert:

**13C Unclaimed money**

Section 18 does not prevent the Commissioner publishing information that relates to unclaimed money held by the Commissioner under the Unclaimed Money Act 1971 and is intended to enable the owner of the unclaimed money to make a claim of ownership, including—

- (a) the name of the holder that transferred the unclaimed money to the Commissioner;
- (b) the location of the business of the holder;
- (c) the name and other details provided by the holder that associate the owner with the unclaimed money.

**180 Schedule 8 amended (Reporting of income information by individuals and treatment of certain amounts)**

(1) In schedule 8, part B, clause 1(a), replace “\$50” with “\$200”.

(2) In schedule 8, part B, clause 1(a), replace “\$200” with “\$50”.

(3) After schedule 8, part B, clause 1(a), insert:

- (ab) an amount of tax that—
  - (i) relates to reportable income derived for a tax year by an individual who uses a tailored tax code; and
  - (ii) is derived solely from a payment of New Zealand superannuation or a veteran’s pension; and
  - (iii) is equal to or less than \$50:
- (ac) an amount of tax that, for a tax year in which an individual who uses a tailored tax code reaches the New Zealand superannuation qualification age,—
  - (i) relates to income derived from 1 or more of the amounts described in paragraph (b); and
  - (ii) is equal to or less than \$50:

(4) In schedule 8, part B, clause 1(b), replace “an amount of tax” with “subject to paragraphs (ab) and (ac), an amount of tax”.

- (5) Subsection (1) applies for the 2019–20 income year.
- (6) Subsections (2), (3), and (4) apply for the 2020–21 and later income years.

### *Goods and Services Tax Act 1985*

#### **181 Goods and Services Tax Act 1985**

Sections 182 to 187 amend the Goods and Services Tax Act 1985.

#### **182 Section 2 amended (Interpretation)**

Insert in section 2(1), in appropriate alphabetical order:

##### **mobile roaming services—**

- (a) means mobile telecommunications services supplied to the mobile device of a person who is outside the country of their usual mobile network as determined by the country code of the subscriber identity module for the person’s mobile device; and
- (b) includes services supplied to enable a person to receive mobile telecommunications services when the person is outside the country of their usual mobile network determined as described in paragraph (a); and
- (c) are services that are classified as—
  - (i) inbound mobile roaming services when the services are received by a person who is in New Zealand and whose usual mobile network determined as described in paragraph (a) is outside New Zealand; or
  - (ii) outbound mobile roaming services when the services are received by a person whose usual mobile network determined as described in paragraph (a) is in New Zealand

#### **183 Section 8 amended (Imposition of goods and services tax on supply)**

- (1) Replace section 8(7) with:
- (7) Subsection (6) does not apply to—
  - (a) supplies made between telecommunications suppliers:
  - (b) inbound mobile roaming services supplied to a non-resident person.
- (2) After section 8(8), insert:
- (8B) Despite subsection (6) but subject to subsection (8), a supply of telecommunications services is treated as being supplied in New Zealand if—
  - (a) the services are outbound mobile roaming services supplied by a non-resident; and
  - (b) the recipient of the supply is outside New Zealand when the services are supplied.

**184 Section 11 amended (Zero-rating of goods)**

- (1) In section 11(8D)(a),—
  - (a) replace “a supply that is” with “a supply that wholly or partly consists of”;
  - (b) delete “and paragraph (b) does not apply”.
- (2) In section 11(8D)(ab), replace “a supply that is” with “a supply that wholly or partly consists of”.
- (3) In section 11(8D)(b), words before subparagraph (i), replace “a supply of an interest” with “a supply that is wholly or partly of an interest”.
- (4) In section 11(8D)(c)(ii),—
  - (a) replace “an arrangement that involves” with “an arrangement that wholly or partly consists of”;
  - (b) after “to the lessor”, insert “; or the lessor’s cancellation of the supply of the interest in land to the lessee,”.
- (5) Subsections (1) to (4) apply to a supply made by a person on or after 30 June 2014, except for a supply for which the person takes a tax position—
  - (a) in the period beginning with 30 June 2014 and ending before the date in which this Act receives the Royal assent; and
  - (b) that is inconsistent with the amendments made by subsections (1) to (4).

**185 Section 11AB amended (Zero-rating of telecommunications services)**

- (1) In section 11AB(b), replace “under section 8(9).” with “under section 8(9); or”, and insert:
  - (c) the services are inbound mobile roaming services supplied to a non-resident.
- (2) After section 11AB(c), insert:
  - (2) Subsection (1)(b) does not apply to outbound mobile roaming services.

**186 Section 25 amended (Credit and debit notes)**

- (1) Repeal section 25(1)(aab).
- (2) Replace section 25(1)(ab) with:
  - (ab) this Act was incorrectly applied to the treatment of the supply, so that the supply was charged with tax at an incorrect rate, or charged with tax when it should not have been, or not charged with tax when it should have been; or
- (3) Replace section 25(1)(ab) with:
  - (ab) the supplier—
    - (i) incorrectly applied this Act to the treatment of the supply, so that the supply was charged with tax at an incorrect rate, or charged



- with tax when it should not have been, or not charged with tax when it should have been; and
- (ii) did not subsequently make an election under section 24(5B) for the supply; or
- (4) Repeal section 25(1)(abb).
- (5) Replace section 25(3)(f) with:
- (f) in the case of a supply to which section 11(1)(mb) was incorrectly applied to the treatment of, so that the supply was not zero-rated when it should have been, a credit note may not be issued after 7 years from the date of settlement of the transaction relating to the supply.
- (6) Replace section 25(3)(f) with:
- (f) a credit note in relation to a supply may not be issued after the earlier of the following, as applicable:
- (i) in the case of a supply to which section 11(1)(mb) was incorrectly applied to the treatment of, so that the supply was not zero-rated when it should have been, 7 years from the date of settlement of the transaction relating to the supply:
- (ii) 4 years from the end of the 4-year period referred to in the relevant subsection of section 45, in the case of a supply that results in an overpayment of tax that is—
- (A) referred to in section 45(1), (2), or (3); and
- (B) the result of a clear mistake or simple oversight of the supplier:
- (iii) in the case of a supply other than a supply described in subparagraph (ii), 4 years from the end of the taxable period in which the return was provided by the supplier for the taxable period in which the supply was made.

**187 Section 51 amended (Persons making supplies in course of taxable activity to be registered)**

Repeal section 51(1)(e).

***Student Loan Scheme Act 2011***

**188 Student Loan Scheme Act 2011**

Sections 189 and 190 amend the Student Loan Scheme Act 2011.

**189 Section 34 amended (Repayment codes for New Zealand-based borrowers who derive salary or wages)**

In section 34(2), words before paragraph (a), replace “STC” with “TTC”.

**190 Section 208 amended (Disclosure of information between Inland Revenue Department and New Zealand Customs Service for information-matching purposes)**

After section 208(2)(c), insert:

- (d) a borrower’s passport number.

***KiwiSaver Act 2006***

**191 KiwiSaver Act 2006**

Sections 192 and 193 amend the KiwiSaver Act 2006.

**192 Section 4 amended (Interpretation)**

- (1) This section amends section 4(1).  
(2) Replace the definition of **Australian complying superannuation scheme** with:

**Australian complying superannuation scheme** means—

- (a) an entity that is a complying superannuation fund for the purposes of Part 5, Division 2 of the Superannuation Industry (Supervision) Act 1993 (Aust) and that is regulated by the Australian Prudential Regulation Authority;  
(b) the Australian Commissioner of Tax (**ACT**), in the ACT’s capacity under the Superannuation (Unclaimed Money and Lost Members) Act 1999 (Aust)
- (3) In the definition of **KiwiSaver status**, replace “contribution holiday” with “savings suspension”.

**193 Section 83 amended (Unclaimed money held by Commissioner)**

- (1) In section 83(1)(a), replace “6 years” with “5 years”.  
(2) After section 83(3)(a), insert:  
(ab) for money relating to an employer deduction or employer contribution to which subsection (1)(b) applies, as if the date on which the Commissioner becomes the holder is the last day of the month to which the employment income information for the money relates; and
- (3) In section 83(3)(c), replace “subparagraph (i) of the proviso to section 4(1) of the Unclaimed Money Act 1971” with “section 4(2)(e) of the Unclaimed Money Act 1971”.

### *Companies Act 1993*

#### **194 Section 53 amended (Dividends)**

In section 53(2)(a) of the Companies Act 1993, replace “for a portfolio tax rate entity, as a result of section HL 7 of the Income Tax Act 2004” with “for a multi-rate PIE, as a result of section HM 48 of the Income Tax Act 2007”.

### *Land Transfer Act 2017*

#### **195 Land Transfer Act 2017**

Sections 196 to 203 amend the Land Transfer Act 2017.

#### **196 Section 77 amended (Interpretation)**

- (1) In section 77(1), repeal the definition of **tax information**.
- (2) In section 77(1), insert in their appropriate alphabetical order:

**IRD number** has the meaning given to tax file number by section 3(1) of the Tax Administration Act 1994

**tax information** means the information specified in a tax statement in accordance with section 79(1)(a) and (if applicable) section 80

#### **197 Section 79 replaced (Content of tax statement)**

Replace section 79 with:

##### **79 Content of tax statement**

- (1) A tax statement must—
  - (a) contain the prescribed information; and
  - (b) be completed by or on behalf of the transferor or transferee; and
  - (c) be signed by the transferor or transferee.
- (2) If the prescribed information includes the transferor’s or transferee’s IRD number and they do not have one, they must request an IRD number for the purpose of providing that information.

#### **198 New section 82A inserted (Chief executive must supply tax information to Statistician)**

After section 82, insert:

##### **82A Chief executive must supply tax information to Statistician**

- (1) The chief executive must supply to the Statistician (as defined in section 2 of the Statistics Act 1975) tax information and details about the transfer or transfers to which the tax information relates that are held by Land Information New Zealand, if the Statistician requests the information for the purposes of the Statistics Act 1975.

(2) Subsection (1) applies despite anything in the Family Violence Act 2018.

**199 Section 83 amended (Other provisions concerning use of tax information)**

(1) In section 83, replace “the information specified in section 79(1)(d), (e), (f), and (g), (2)(b), and (c)(i) and (ii)” with “tax information, other than identifying information,”.

(2) In section 83, insert as subsection (2):

(2) In this section, **identifying information** means any of the following (if it is part of the prescribed tax information):

- (a) a person’s name:
- (b) a person’s IRD number:
- (c) a person’s number in another jurisdiction that is equivalent to an IRD number:
- (d) any other tax information declared to be identifying information by regulations made under this Act.

**200 Section 85 amended (Status of tax information)**

In section 85(1), after “82,”, insert “82A,”.

**201 Section 86 amended (Disclosure of information between authorised persons)**

(1) In section 86(1)(a), after “82,” insert “82A,”.

(2) In section 86(2), definition of **authorised person**, after paragraph (a), insert:

- (aa) the Statistician or an employee of the department (as those terms are defined in section 2 of the Statistics Act 1975) who is authorised by the Statistician to disclose and receive information under this section; or

**202 Section 227 amended (Regulations)**

(1) In section 227(1)(3), after “record,”, insert “statement,”.

(2) After section 227(1)(27), insert:

- (27A) declaring tax information to be identifying information for the purposes of section 83:

**203 Schedule 1 amended (Transitional, savings, and related provisions)**

In schedule 1, after clause 14, insert:

### Part 3

#### Provision relating to Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021

##### 15 Content of tax statements before regulations are made prescribing content

- (1) This clause applies from the 2021 commencement date until the first regulations prescribing information for the purposes of new section 79(1)(a) come into force.
- (2) The information required by section 79 (as in force before the 2021 commencement date) to be included in a tax statement is taken to be the information required to be included in a tax statement under new section 79(1)(a) as if it were information prescribed in regulations made for the purposes of new section 79(1)(a).
- (3) In this clause,—

**2021 commencement date** means the date on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 receives the Royal assent

**new section 79(1)(a)** means section 79(1)(a) as inserted by the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021.

#### *Unclaimed Money Act 1971*

##### 204 Unclaimed Money Act 1971

Sections 205 to 217 amend the Unclaimed Money Act 1971.

##### 205 Section 2 amended (Interpretation)

- (1) In section 2, insert, in appropriate alphabetical order:

**document** means—

- (a) a thing that is used to hold, in or on the thing and in any form, items of information:
- (b) an item of information held in or on a thing referred to in paragraph (a):
- (c) a device associated with a thing referred to in paragraph (a) and required for the expression, in any form, of an item of information held in or on the thing

- (2) In section 2, insert, in appropriate alphabetical order:

**mutual association** means a body or association of persons, whether incorporated or not, which enters into transactions of a mutual character with its members, whether or not it also enters into transactions with other persons

- (3) In section 2, insert, in appropriate alphabetical order:

**quarter** means a period of 3 consecutive calendar months that ends with the last day of March, June, September, or December

## 206 Section 4 replaced (Unclaimed money)

Section 4 is replaced by:

### 4 Meaning of unclaimed money

- (1) **Unclaimed money** means money held in New Zealand that—
  - (a) is payable by a person who is a holder under section 5 to the person who is entitled to the money (the **owner**); and
  - (b) meets the requirements of subsection (2) or (7); and
  - (c) is held by a person who—
    - (i) is not the Commissioner; or
    - (ii) is the Commissioner and has not delisted the money under section 11(6).
- (2) Money meets the requirements of this subsection if—
  - (a) the obligation of the holder to pay the money to the owner arises under an agreement, arrangement, or situation described in subsection (4); and
  - (b) the money is not excluded from meeting the requirements of this subsection by subsection (5); and
  - (c) the requirements of subsection (3) are met.
- (3) The requirements of this subsection are met if—
  - (a) the amount of money payable to an individual owner is more than \$100, and—
    - (i) for money to which a single-term arrangement described in subsection (6)(a) applies, the owner during a period of 5 years does not request information from, and does not provide instructions or information to, the holder, whether about the money or about another matter; and
    - (ii) for money to which a renewing-term arrangement described in subsection (6)(b) applies, the owner during a period of 5 years beginning on or after the end of the first fixed period and ending with the end of the second or a later fixed period does not request information from, and does not provide instructions or information to, the holder, whether about the money or about another matter; or
  - (b) the holder chooses to pay the money to the Commissioner as unclaimed money and satisfies the requirements of section 5B.
- (4) For the purposes of subsection (2), money payable by a holder to an owner may be unclaimed money if the obligation arises under 1 or more of—

- (a) an arrangement under which the holder receives money from the owner in consideration for the holder's providing money to the owner at a future time or on the occurrence or non-occurrence of a future event, whether or not the event occurs because notice is given or not given:
  - (b) a policy of life assurance that matures—
    - (i) otherwise than by death; or
    - (ii) by death, in which case the due date for payment is treated for the purposes of subsection (2) as being the date on which the holder first has reason to suppose that the death has occurred:
  - (c) an agreement, arrangement, or situation that gives rise to an obligation under law or equity of the holder to make a payment to the owner.
- (5) Money payable by a holder to an owner does not meet the requirements of subsection (2) if the money is payable—
- (a) as a dividend by the holder as a company to the owner as a shareholder, unless the payment is made by the holder as a mutual association in relation to money deposited with the holder by the owner as a member:
  - (b) as a rebate by the holder as a mutual association to the owner as a member in relation to the trading transactions of the member with the association, unless the payment is made in relation to money deposited with the holder by the owner:
  - (c) as a benefit from a pension fund or superannuation fund.
- (6) For the purposes of subsection (3)(a),—
- (a) an arrangement that applies to money is a **single-term arrangement** if, under the arrangement, the money becomes due for payment on the date of a demand by the owner, or on a specified date or on the date of the occurrence or non-occurrence of an event, and remains due after that date until paid to the owner:
  - (b) an arrangement that applies to money is a **renewing-term arrangement** if, under the arrangement, the money—
    - (i) becomes due for payment after a fixed period if the owner near the end of the fixed period requests repayment; and
    - (ii) is treated as being paid by the holder to the owner and then by the owner to the holder for a further fixed period if the owner does not request repayment as described in subparagraph (i).
- (7) Money meets the requirements of this subsection if—
- (a) the money is payable to an owner by a holder who ceases to carry on business, or by the personal representative of a holder who dies; and
  - (b) the obligation of the holder to make the payment arises from the holder's business; and

- (c) the money is held by the holder or the personal representative of the holder after a period of 6 months from the cessation or death; and
- (d) the money would meet the requirements of subsection (2) in the absence of subsection (4) if the holder or the personal representative of the holder were to hold the money for a sufficient period; and
- (e) the holder or the personal representative of the holder chooses to pay the money to the Commissioner and satisfies the requirements of section 5B.

### 207 Section 5 amended (Holder)

- (1) Replace section 5(2) with:
  - (2) A person, firm, body, or institution (the **elective holder**) who holds or owes an amount of money is the holder of the money under this subsection if—
    - (a) the money is not unclaimed money under section 4(2) or (7) of which the elective holder is the holder under subsection (1); and
    - (b) if the money is excluded from being unclaimed money by section 4(5), the money meets the requirements of section 4(7); and
    - (c) the elective holder chooses to be treated as the holder of the money.
- (2) After section 5(2), insert:
- (3) A department or office of Parliament or Crown entity, as defined in the Public Finance Act 1989, or an organisation or company listed in Schedule 4 or 4A of that Act, is excluded from being a holder under this Act.

### 208 New section 5B inserted (Obligations of holders)

After section 5, insert:

#### 5B Obligations of holders

- (1) A holder must make reasonable efforts to locate the owner of money that is, or will soon become, unclaimed money and to communicate with the owner concerning the money.
- (2) A holder of money that pays the money to the Commissioner as unclaimed money must provide to the Commissioner, with or before the payment and in a form acceptable to the Commissioner, the information relating to the owner and the money that is in the possession or control of the holder and is readily available to the holder, including—
  - (a) the source, and history of the accrual, of the amount;
  - (b) the identity and whereabouts of the owner;
  - (c) the source of the owner's entitlement to payment of the money.

### 209 Sections 6 and 7 repealed

Repeal sections 6 and 7 (which relate to a register of unclaimed money kept by a holder).



**210 Section 8 amended (Payment of unclaimed money to Commissioner)**

- (1) Replace section 8(1) with:
  - (1) If money becomes unclaimed money under section 4(2) for a holder in a reporting period given by subsection (5), the holder must, within a period of 1 month and 20 days from the end of the reporting period,—
    - (a) meet the requirements of section 5B for the money; and
    - (b) pay the money to the Commissioner.
  - (2) In section 8(2), replace “his” with “the Commissioner’s”.
  - (3) After section 8(4), insert:
    - (5) The period (the **reporting period**) for a holder within which the holder is required to comply with subsection (1) for an amount of unclaimed money is—
      - (a) a quarter, except if paragraph (b) or (c) applies; or
      - (b) a period consisting of 2 consecutive quarters and starting and ending on calendar dates approved by the Commissioner, if the Commissioner approves the use of a 6-monthly reporting period by the holder and paragraph (c) does not apply; or
      - (c) for a period that is the first reporting period of the holder ending after the date on which this Act receives the Royal assent, and for which the Commissioner approves a different length from that of the later reporting periods, the period that ends on a date that is —
        - (i) approved by the Commissioner; and
        - (ii) less than 2 years after the date on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 receives the Royal assent; and
        - (iii) consistent with the later reporting periods under paragraph (a) or (b) for the holder.
  - (4) Subsection (1) applies for money that, under section 4 as amended by this Act, becomes unclaimed money on or after the date on which this Act receives the Royal assent.
  - (5) Subsection (1) applies for a holder and money that meet the requirements of subsection (6) or (7), except that the date by which the money is required to be paid to the Commissioner as unclaimed money is the date that is 2 years after the date on which this Act receives the Royal assent.
  - (6) A holder and an amount meet the requirements of this subsection if—
    - (a) the holder and the money do not meet the requirements under section 4, as they were immediately before the amendments made by this Act, for the amount to become unclaimed money on or before the date on which this Act receives the Royal assent; and

- (b) the holder and the money would have met the requirements under section 4, as amended by this Act, for the amount to become unclaimed money on or before the date on which this Act receives the Royal assent; and
  - (c) the amount is not paid to the Commissioner as unclaimed money on or before the date on which this Act receives the Royal assent.
- (7) A holder and an amount meet the requirements of this subsection if the money becomes unclaimed money under section 4 before the date on which this Act receives the Royal assent and is not paid to the Commissioner before that date.

**211 Section 9 amended (Special arrangements may be made by Commissioner)**

In section 9, replace “section 6, section 7, or subsection (1) of section 8” with “section 8(1)”.

**212 Section 10 amended (Examination of accounts)**

- (1) In section 10(1),—
- (a) replace “by him” with “by the Commissioner”;
  - (b) replace “register kept by a holder pursuant to section 6” with “records”;
  - (c) delete the second sentence.
- (2) In section 10(2), replace “by him” with “by the Commissioner”.
- (3) In section 10(3),—
- (a) replace “by him” with “by the Commissioner”;
  - (b) replace “in his knowledge, or his possession” with “in the person’s knowledge, or the person’s possession”.

**213 Section 11 amended (Commissioner may make payment to claimant)**

- (1) In section 11(1), words after paragraph (b),—
- (a) replace “demanded by him” with “demanded by the claimant”;
  - (b) replace “made by him” with “made by the Commissioner”.
- (2) In section 11(5),—
- (a) replace “by him” with “by the claimant”;
  - (b) replace “to him” with “to the claimant”.
- (3) After section 11(5), insert:
- (6) The Commissioner may remove an amount of unclaimed money from the list of amounts that are available for the owner to claim from the Commissioner, and the amount then ceases to be unclaimed money, if the money—
- (a) has been unclaimed money for 25 years or more;
  - (b) is money for which the Commissioner holds no information relating to the owner:

- (c) is an amount of \$100 or less.
- (7) No person shall have a right of action against the Commissioner for the investment or non-investment of an amount of unclaimed money held by the Commissioner.
- (8) No person shall have a right of action against the Commissioner for an amount of money that—
  - (a) has been delisted by the Commissioner under subsection (6); or
  - (b) is unclaimed money meeting the requirements of subsection (6) for delisting by the Commissioner.

**214 New section 11B inserted (Capacity of trustees)**

After section 11, insert:

**11B Capacity of trustees**

- (1) For the purposes of this Act, a person who is acting as a trustee of a trust is acting in a capacity that is separate from their other capacities.
- (2) The other capacities of the person referred to in subsection (1) may include—
  - (a) a personal capacity:
  - (b) a capacity as a body corporate that is a legal person:
  - (c) a capacity as a trustee of another trust.

**215 Section 12 repealed (Officers to maintain secrecy)**

Repeal section 12.

**216 Section 13 amended (Offences)**

In section 13(a), replace “section 6, section 7, subsection (1) of section 8,” with “section 8(1)”.

**217 Schedule repealed**

Repeal the Schedule.

***Taxation (Disclosure of Information to Approved Credit Reporting Agencies)  
Regulations 2017***

**218 Regulation 3 amended (Reportable unpaid tax threshold)**

In regulation 3 of the Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017, replace “section 85N(2)(d)(i)” with “clause 33(3)(d)(i) of schedule 7”.

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

**219 Section 4 amended (Section DB 65 repealed)**

In section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, insert, as new subsection (2):

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

***Taxation (Income Tax Rate and Other Amendments) Act 2020***

**220 Section 19 amended (Schedule 1, part D, table 2 amended)**

In section 19 of the Taxation (Income Tax Rate and Other Amendments) Act 2020, in new schedule 1, part D, table 2, row 2, column 3, replace “0.390” with “0.330”.

**Schedule 1**  
**Income Tax Act 2007: aligning nomenclature with Social Security  
Act 2018**

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**Section CF 1 amended (Benefits, pensions, compensation, and government grants)**

Replace section CF 1(1)(c) with:

- (c) a payment of a main benefit:

In section CF 1, list of defined terms, delete “income-tested benefit”.

In section CF 1, list of defined terms, insert “main benefit”.

**Section CW 33 amended (Allowances and benefits)**

Replace section CW 33(1)(a)(i) with:

- (i) a payment of a main benefit:

In section CW 33, list of defined terms, delete “income-tested benefit”.

In section CW 33, list of defined terms, insert “main benefit”.

**Section LC 13 amended (Tax credits for independent earners)**

In section LC 13(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section LC 13, list of defined terms, delete “income-tested benefit”.

In section LC 13, list of defined terms, insert “main benefit”.

**Section MA 8 amended (Some definitions for family scheme)**

In section MA 8, definition of **social assistance payment**, replace paragraph (a) with:

- (a) a main benefit; or

In section MA 8, list of defined terms, delete “income-tested benefit”.

In section MA 8, list of defined terms, insert “main benefit”.

**Section MB 1 amended (Adjustments for calculation of family scheme income)**

In section MB 1(1)(b), replace “an income-tested benefit” with “a main benefit”.

In section MB 1, list of defined terms, delete “income-tested benefit”.

In section MB 1, list of defined terms, insert “main benefit”.

**Section MC 6 amended (When person does not qualify)**

Replace section MC 6(b)(i) with:

- (i) a main benefit; or

In section MC 6, list of defined terms, delete “income-tested benefit”.

In section MC 6, list of defined terms, insert “main benefit”.

**Section MD 8 amended (Fourth requirement: person not receiving benefit)**

Replace section MD 8(a) with:

- (a) a main benefit; or

In section MD 8, list of defined terms, delete “income-tested benefit”.

In section MD 8, list of defined terms, insert “main benefit”.

**Section MD 11 amended (Entitlement to parental tax credit)**

In section MD 11(1)(b), replace “an income-tested benefit” with “a main benefit”.

In section MD 11(6)(b)(ii), replace “an income-tested benefit” with “a main benefit”.

In section MD 11, list of defined terms, delete “income-tested benefit”.

In section MD 11, list of defined terms, insert “main benefit”.

**Section MD 14 amended (Person receiving protected family tax credit)**

In section MD 14(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section MD 14(1)(b), replace “an income-tested benefit” with “a main benefit”.

In section MD 14, list of defined terms, delete “income-tested benefit”.

In section MD 14, list of defined terms, insert “main benefit”.

**Section MF 2 amended (When person not entitled to payment by instalment)**

In section MF 2(1)(a)(i), replace “an income-tested benefit” with “a main benefit”.

In section MF 2(1)(a)(ii), replace “an income-tested benefit” with “a main benefit”.

In section MF 2, list of defined terms, delete “income-tested benefit”.

In section MF 2, list of defined terms, insert “main benefit”.

**Section MG 3 amended (Best Start credit abatement)**

In section MG 3, list of defined terms, delete “income-tested benefit”.

**Section MG 4 amended (Person receiving protected Best Start tax credit)**

In section MG 4(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section MG 4(1)(b), replace “an income-tested benefit” with “a main benefit”.

In section MG 4, list of defined terms, delete “income-tested benefit”.

In section MG 4, list of defined terms, insert “main benefit”.

**Section MZ 2 amended (Calculation of child tax credit)**

In section MZ 2(3)(b), replace “an income-tested benefit” with “a main benefit”.

In section MZ 2, list of defined terms, delete “income-tested benefit”.

In section MZ 2, list of defined terms, insert “main benefit”.

**Section RD 5 amended (Salary or wages)**

Replace section RD 5(6)(b) with:

- (b) a main benefit:

In section RD 5, list of defined terms, delete “income-tested benefit”.

In section RD 5, list of defined terms, insert “main benefit”.

**Section RD 11 amended (Amount of tax in certain circumstances)**

In the heading to section RD 11(3), replace “*Income-tested benefits*” with “*Main benefits*”.

Replace section RD 11(3)(a) with:

- (a) a main benefit:

In section RD 11, list of defined terms, delete “income-tested benefit”.

In section RD 11, list of defined terms, insert “main benefit”.

**Section YA 1 amended (Definitions)**

In section YA 1, repeal the definition of “**income-tested benefit**”.

In section YA 1, insert, in appropriate alphabetical order:

**main benefit** means any of the following:

- (a) a main benefit, as defined in paragraph (a) of the definition of **main benefit** in schedule 2 of the Social Security Act 2018:
- (b) main benefit equivalent assistance

In section YA 1, definition of **main benefit equivalent assistance**, paragraph (a), replace “defined” with “defined in paragraph (a) of the definition of **main benefit**”.

## Schedule 2

### Other enactments: consequential amendments aligning nomenclature

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#### Part 1

##### Amendments to other Acts

###### Accident Compensation Act 2001 (2001 No 49)

In section 11(1)(a), replace “income-tested benefit” with “main benefit”.

In section 11(2), replace “**income-tested benefit**” with “**main benefit**”.

###### Social Security Act 2018 (2018 No 32)

In section 349, repeal the definition of “**income-tested benefit**”.

In section 349, insert, in appropriate alphabetical order:

**main benefit** means any of the following:

- (a) a main benefit as defined in section YA 1 of the Income Tax Act 2007;
- (b) an income-tested benefit, as that term is defined in whichever of the following apply:
  - (i) section 2 of the Income Tax Act 1976; or
  - (ii) section OB 1 of the Income Tax Act 1994; or
  - (iii) section OB 1 of the Income Tax Act 2004

In the heading to section 350, replace “**income-tested benefit**” with “**main benefit**”.

In section 350(1), replace “an income-tested benefit” with “a main benefit”.

In section 352(1), replace “an income-tested benefit” with “a main benefit”.

In Schedule 2, repeal the definition of “**income-tested benefit**”.

In Schedule 2, replace the definition of “**main benefit under this Act or main benefit**” with:

**main benefit under this Act or main benefit**,—

- (a) means a benefit under this Act that is—
  - (i) jobseeker support; or
  - (ii) sole parent support; or
  - (iii) a supported living payment on the ground of restricted work capacity or total blindness, under section 34; or
  - (iv) a supported living payment on the ground of caring for another person, under section 40; or
  - (v) a youth payment; or



**Social Security Act 2018 (2018 No 32)—continued**

- (vi) a young parent payment; or
- (vii) an emergency benefit:
- (b) is defined in section 349 for the purposes of sections 349 to 352

**Student Loan Scheme Act 2011 (2011 No 62)**

In the heading to section 40, replace “**income-tested benefits**” with “**main benefits**”.

In section 40(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section 40(1)(b), replace “income-tested benefit” with “main benefit”.

In section 40(2)(a), replace “income-tested benefit” with “main benefit”.

In section 40(2)(b), replace “income-tested benefit” with “main benefit”.

In section 40(4), definition of **equivalent gross amount**, paragraph (a), replace “an income-tested benefit” with “a main benefit”.

In section 40(4), definition of **equivalent gross amount**, paragraph (b), replace “income-tested benefit” with “main benefit”.

In section 40(4), repeal the definition of **income-tested benefit**.

In section 40(4), insert, in appropriate alphabetical order:

**main benefit** has the same meaning as in section YA 1 of the Income Tax Act 2007.

**Tax Administration Act 1994 (1994 No 166)**

In the heading to section 24B(3), replace “*Income-tested benefits*” with “*Main benefits*”.

Replace section 24B(3)(a) with:

- (a) a main benefit:

In section 80KK(3)(a)(i), replace “an income-tested benefit” with “a main benefit”.

In section 80KN(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section 80KN(2), replace “income-tested benefit” with “main benefit”.

In the heading to section 80KP, replace “**income-tested benefit**” with “**main benefit**”.

In section 80KP(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section 80KP(2), replace “an income-tested benefit” with “a main benefit”.

In section 80KU(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section 225A(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section 225A(2)(a), replace “an income-tested benefit” with “a main benefit”.

In section 225A(2)(b), words before the subparagraphs, replace “an income-tested benefit” with “a main benefit”.

**Tax Administration Act 1994 (1994 No 166)**—*continued*

In section 225A(2)(b)(i), replace “income-tested benefit” with “main benefit”.

In section 225A(2)(b)(ii), replace “income-tested benefit” with “main benefit”.

In schedule 5, part A, clause 1(3), replace “an income-tested benefit” with “a main benefit” in each place.

In schedule 8, part B, replace clause 1(b)(i) with:

(i) a main benefit:

## Part 2

### Amendments to legislative instrument

#### Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 (LI 2018/173)

In regulation 3(1), revoke the definition of “**income-tested benefit**”.

In regulation 3(1), insert, in appropriate alphabetical order:

**main benefit** has the same meaning as in section 349 of the Social Security Act 2018

In regulation 13(a)(i), replace “an income-tested benefit” with “a main benefit”.

#### Legislative history

4 June 2020	Introduction (Bill 273–1)
24 June 2020	First reading and referral to Finance and Expenditure Committee
4 March 2021	Reported from Finance and Expenditure Committee (Bill 273–2)
11 March 2021	Second reading
23 March 2021	Committee of the whole House, third reading
30 March 2021	Royal assent

This Act is administered by the Inland Revenue Department.