

Version  
as at 31 March 2025



## Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

Public Act      2022 No 10  
Date of assent      30 March 2022  
Commencement      see section 2

### Contents

	Page
1      Title	14
2      Commencement	14
<b>Part 1</b>	
<b>Annual rates of income tax</b>	
3      Annual rates of income tax for 2021–22 tax year	15
<b>Part 2</b>	
<b>Amendments to Goods and Services Tax Act 1985</b>	
4      Amendments to Goods and Services Tax Act 1985	16
5      Section 2 amended (Interpretation)	16
6      Section 3 amended (Meaning of term financial service)	18
7      Section 3A amended (Meaning of input tax)	18
8      Section 5 amended (Meaning of term supply)	19
9      Section 6 amended (Meaning of term taxable activity)	19
10     Section 11 amended (Zero-rating of goods)	19
11     Section 11A amended (Zero-rating of services)	20

---

#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Inland Revenue Department.**

12	New section 12C inserted (Information for importation of goods including distantly taxable goods)	20
	12C Information for importation of goods including distantly taxable goods	20
13	Section 15 amended (Taxable periods)	20
14	Section 15B amended (Taxable periods aligned with balance dates)	20
15	Section 15C amended (Changes in taxable periods)	21
16	Section 15D amended (When change in taxable period takes effect)	21
17	Section 15E amended (Meaning of end of taxable period)	21
18	New section 15EB inserted (Approval of taxable period not consisting of whole calendar months)	23
	15EB Approval of taxable period not consisting of whole calendar months	23
19	New cross-headings and sections 19E to 19Q inserted	23
	<i>Records of supplies</i>	
	19E Definitions of types of record	23
	19F Records of supplies	25
	19G Records of imported supplies received by registered person	25
	19H Records of secondhand goods received by registered person	25
	19I Records of supplies to nominated recipients	26
	19J Records of supplies by members of GST group or supplier group	26
	<i>Supply information and supply correction information</i>	
	19K Taxable supply information: supplies by registered person	26
	19L Taxable supply information: supplies by member of GST group or supplier group	28
	19M Taxable supply information: goods included in supplies of distantly taxable goods	29
	19N Supply correction information	29
	19O Treatment of fractional amounts of cent in information	31
	19P Commissioner may approve use of symbols, etc, on electronically transmitted information	32
	19Q References to tax invoice, credit note, and debit note	32
20	New cross-heading above section 20 inserted	34
	<i>Calculation of tax payable: deductions, apportionment, other adjustments</i>	
21	Section 20 amended (Calculation of tax payable)	34
22	Section 20H amended (Goods and services tax incurred in making financial services for raising funds)	35
23	Section 21 amended (Adjustments for apportioned supplies)	36

24	Section 21B amended (Adjustments when person or partnership becomes registered after acquiring goods and services)	36
25	Section 21F amended (Treatment on disposal)	37
26	Section 24 amended and repealed (Tax invoices)	37
27	Section 24BA amended and repealed (Shared tax invoices)	38
28	Section 24BAB repealed (Receipts for supplies)	38
29	Section 24BAC repealed (Information for importation of goods including distantly taxable goods)	38
30	Section 24B repealed (Records to be kept by recipient of imported goods and services)	38
31	Section 25 amended (Credit and debit notices)	38
32	Section 25AA amended (Consequences of change in contract for imported goods and services)	41
33	Section 25AB amended (Consequences of change in contract for secondhand goods)	41
34	Section 25A repealed (Commissioner may approve use of symbols, etc, on electronically transmitted invoices, receipts, and credit and debit notes)	41
35	Section 43 amended (Deduction of tax from payment due to defaulters)	41
36	Section 53 amended (Registered person to notify change of status)	42
37	Section 55 amended (Group of companies)	42
38	New section 55B inserted (Supplier group and issuing member)	47
	55B Supplier group and issuing member	47
39	Section 60 amended (Agents and auctioneers)	48
40	Section 75 amended (Keeping of records)	49
41	Section 75B amended (General rules for giving information or communicating matters)	49
42	Section 78AA amended (Exceptions to effect of increase of tax)	49
43	Section 78B amended (Adjustments to tax payable for persons furnishing returns following change in rate of tax)	50
44	Section 78BA amended (Adjustments to tax payable in relation to credit and debit notes following change in rate of tax)	50
45	Section 78G repealed (Railways vesting: zero-rating and timing of tax calculations and documents)	51

### **Part 3**

#### **Amendments to Income Tax Act 2007**

46	Amendments to Income Tax Act 2007	51
47	Section BC 5 amended (Taxable income)	51
48	Section CB 6A replaced (Disposal within 10 years: Bright-line test for residential land)	51
	CB 6A Disposal within 10 years: Bright-line test for residential land	51

	CB 6AB Residential land transferred in relation to certain family trusts and other capacities	56
	CB 6AC Residential land transferred in relation to certain Māori family trusts	57
	CB 6AE Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi	58
49	Section CB 16A amended (Main home exclusion for disposal within 10 years)	59
50	Section CB 36 amended (Disposal of emissions units)	61
51	Section CD 5 amended (What is a transfer of company value?)	61
52	Section CD 38 amended (General calculation rule for transfers of company value)	61
53	Section CD 43 amended (Available subscribed capital (ASC) amount)	61
54	Section CD 44 amended (Available capital distribution amount)	62
55	Section CW 10 amended (Dividend within New Zealand wholly-owned group)	62
56	New section CW 10B inserted (Dividends derived by council-controlled organisation holding companies)	62
	CW 10B Dividends derived by council-controlled organisation holding companies	62
57	Section CW 39 amended (Local authorities)	63
58	Section CW 47 amended (TAB NZ and racing clubs)	63
59	New section CW 62C inserted (Income from foreign-currency loans used for disallowed residential property)	63
	CW 62C Income from foreign-currency loans used for disallowed residential property	63
60	Section CX 47 amended (Government grants to businesses)	64
61	Section CZ 39 amended (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)	64
62	Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)	65
63	Section DB 7 amended (Interest: most companies need no nexus with income)	66
64	Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)	66
65	Section DB 20B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)	66
66	Section DB 23C amended (Revenue account property: cost of some residential land reduced)	66
67	Cross-heading above section DB 41 replaced	67
	<b><i>Corporate gifting</i></b>	
68	Section DB 41 amended (Charitable or other public benefit gifts by company)	67

69	Section DF 1 amended (Government grants to businesses)	67
70	Section DG 2 amended (Application of this subpart)	67
71	Section DG 9 amended (Apportionment formula)	68
72	Section DG 10 amended (Interest expenditure rules)	68
73	Section DG 11 amended (Interest expenditure: close companies)	68
74	Section DG 14 amended (Interest expenditure: non-corporate shareholders)	68
75	New subpart DH inserted (Interest incurred in relation to certain land)	69
	Subpart DH—Interest incurred in relation to certain land	
	DH 1 Interest related to certain land	69
	DH 2 When this subpart applies	69
	DH 3 When this subpart applies: companies	69
	DH 4 When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing	70
	DH 5 Key terms	71
	DH 6 Interposed residential property percentage	75
	DH 7 Grandparented residential interest	76
	DH 8 Deduction not allowed	77
	DH 9 Exception to limited denial of deductions: loans denominated in foreign currencies	78
	DH 10 Limited denial of deductibility: simplified calculation of interest affected	78
	DH 11 Denied amounts: treatment upon disposal of disallowed residential property	79
	DH 12 Valuation	80
76	Section DT 1A amended (Ring-fenced allocations)	80
77	Section DV 18B amended (Cost base for shares when debt forgiven within economic group)	81
78	Section EE 6 amended (What is depreciable property?)	81
79	Section EE 40 amended (Transfer of depreciable property on or after 24 September 1997)	81
80	Section EE 44 amended (Application of sections EE 48 to EE 51)	81
81	Section EE 47 amended (Events for purposes of section EE 44)	81
82	Section EE 48 amended (Effect of disposal or event)	81
83	Section EH 2 replaced (Income Equalisation Reserve Account)	81
	EH 2 Deposits to be paid into Crown Bank Account	81
84	Section EJ 10B amended (IFRS leases)	81
85	Section EK 1 replaced (Environmental Restoration Funds Account)	82
	EK 1 Payment to Crown Bank Account	82
86	Section EL 3 amended (Definitions for this subpart)	82
87	Section EL 14 amended (Continuity rules for companies)	82

88	Section EM 1 amended (Australian non-attributing shares and attributing FDR method interests)	82
89	Section EM 3 amended (What hedges does this subpart apply to?)	83
90	Section EM 4 replaced (Irrevocable elections)	83
	<b>EM 4 Elections</b>	<b>83</b>
91	Section EM 5 amended (Fair dividend rate hedge portions)	84
92	New section EM 5B inserted (Fair dividend rate hedge portions: portfolio method)	87
	<b>EM 5B Fair dividend rate hedge portions: portfolio method</b>	<b>87</b>
93	Section EM 6 amended (Income and expenditure for fair dividend rate hedge portions)	88
94	Section EM 7 amended (Quarterly test of fair dividend rate hedge portions)	88
95	Section EM 8 amended (Some definitions)	88
96	Section EW 5 amended (What is an excepted financial arrangement?)	89
97	Section EW 46C amended (Consideration when debt forgiven within economic group)	89
98	Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)	90
99	Section EZ 23BB amended (Interest in property acquired after depreciable property affected by Canterbury earthquakes)	90
100	Section EZ 23BC amended (Property acquired after depreciable property affected by Hurunui/Kaikōura earthquakes)	90
101	New section EZ 23BD inserted (Loss on disposal of grandparented structure)	91
	<b>EZ Loss on disposal of grandparented structure 23BD</b>	<b>91</b>
102	Section EZ 73 amended (Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions)	91
103	Section FB 3A amended (Residential land)	91
104	New cross-heading and sections FC 9B and FC 9C inserted	91
	<i>Exceptions for residential land transferred to trustees of certain trusts or other entities</i>	
	<b>FC 9B Residential land: certain transferors</b>	<b>92</b>
	<b>FC 9C Residential land: certain recipients</b>	<b>92</b>
	<b>FC 9D Residential land: certain recipients of Treaty of Waitangi land</b>	<b>92</b>
105	Section FH 11 amended (Residents, or non-residents with deducting branches, having expenditure funding overseas hybrid mismatches)	93
106	Section FH 15 amended (Definitions)	94

107	Section FM 8 amended (Transactions between group companies: income)	95
108	Section FM 15 amended (Amortising property and revenue account property)	95
109	Section FO 2 amended (Amalgamation rules)	95
110	Section FO 21 amended (When amalgamating companies are parties to financial arrangements: economic groups)	95
111	Section GB 3 amended (Arrangements for carrying forward loss balances: companies' ownership)	95
112	New cross-heading and sections GB 53B and GB 53C inserted	96
<b><i>Interest incurred in relation to certain land</i></b>		
	GB 53B Interposed residential property percentage: increases or decreases in value	96
	GB 53C On-lending at lower rate	96
113	Section GC 3B amended (Disposals of emissions units)	96
114	Section GC 18 amended (Loan features disregarded by rules for transfer pricing arrangements)	97
115	Section HF 7 replaced (Taxable Maori authority distributions)	97
	HF 7 Taxable Maori authority distributions	97
116	Section HR 3 amended (Definitions for section HR 2: group investment funds)	97
117	Section HR 9BA amended (Elections to treat debt funding special purpose vehicles as transparent)	97
118	Section IA 5 amended (Restrictions on companies' loss balances carried forward: continuity of ownership)	98
119	Section IB 3 amended (When tax loss components of companies carried forward despite ownership continuity breach)	98
120	Section IB 5 amended (When group companies treated as single company)	99
121	Section ID 5 amended (Pre-consolidation losses on exit: part-year rule)	99
122	Section IP 1 amended (When this subpart applies)	99
123	Section IP 3 amended (Continuity breach: tax loss components of companies carried forward)	99
124	New section IP 3B inserted (Business continuity breach: tax loss components of companies carried forward)	100
	IP 3B Business continuity breach: tax loss components of companies carried forward	100
125	Section IP 4 amended (Breach in income year in which tax loss component arises)	100
126	Section IP 5 amended (Breach in tax year in which loss balance is grouped)	101
127	Section IP 6 amended (Financial statements required)	101

128	Section IZ 8 amended (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year)	101
129	Section LB 1B amended (Treatment of tax credits of certain companies with shareholders who are employees)	101
130	Section LT 1 amended (Tax credits for petroleum miners)	101
131	Section LY 5 amended (Eligible research and development expenditure)	103
132	Section LY 9 amended (Orders in Council)	103
133	Section LY 10 amended (Evaluation)	103
134	Section MD 9 amended (Fifth requirement: earner)	104
135	Section MX 3 amended (Wage intensity criteria)	104
136	Section OA 9 amended (General treatment of credits and debits on resident’s restricted amalgamation)	105
137	Section OB 4 amended (ICA payment of tax)	105
138	Section OB 32 amended (ICA refund of income tax)	106
139	Table O1 amended (Table O1: imputation credits)	106
140	Table O2 amended (Table O2: imputation debits)	107
141	Section OK 2 amended (MACA payment of tax)	107
142	Section OK 3 amended (MACA payment of tax to other Maori authorities)	108
143	Section OK 11 amended (MACA allocation of provisional tax)	108
144	Section OK 12 amended (MACA refund of income tax)	109
145	Table O17 amended (Table O17: Maori authority credits)	110
146	Table O18 amended (Table O18: Maori authority debits)	110
147	Section OP 12 amended (Consolidated ICA dividend derived with imputation credit)	111
148	Section OP 30 amended (Consolidated ICA refund of income tax)	111
149	Section OP 31 amended (Consolidated ICA amount applied to pay other taxes)	111
150	Section RC 35B amended (Treatment of overpaid provisional tax instalments calculated using AIM method)	112
151	Section RC 38 amended (Crediting income tax with early-payment discount)	112
152	Section RC 40 amended (Some definitions)	112
153	Section RD 5 amended (Salary or wages)	112
154	Section RD 45 replaced (Unclassified benefits)	112
154	RD 45 Unclassified benefits	112
155	Section RD 50 amended (Employer’s liability for attributed benefits)	114
156	Section RD 60 amended (Close company option)	115
157	Section RD 61 amended (Small business option)	115
158	Section RD 63 amended (When employer stops employing staff)	115
159	Section RD 67 replaced (Calculating amounts of tax for employer’s superannuation cash contributions)	115

	RD 67	Calculating amounts of tax for employer's superannuation cash contributions	115
160		Section RE 2 amended (Resident passive income)	115
161		Section RE 10C amended (Obligations of custodial institutions in relation to certain payments of investment income)	116
162		Section RE 21 amended (Basis of payment of RWT)	116
163		Section RF 12 amended (Interest paid by approved issuers or transitional residents)	116
164		Section RM 1 amended (What this subpart does)	116
165		Section RM 2 amended (Refunds for overpaid tax)	116
166		Section RM 4 amended (Overpayment on amended assessment)	117
167		Section RM 27 amended (Application when no credits arise)	117
168		Section RP 17 amended (Tax pooling intermediaries)	117
169		Section RP 17B amended (Tax pooling accounts and their use)	117
170		Section RP 19 amended (Transfers from tax pooling accounts)	119
171		Section YA 1 amended (Definitions)	119
172		Section YA 4 amended (General rules for giving information or communicating matters)	125
173		Section YC 13 amended (Corporate spin-outs)	125
174		Section YE 1 amended (References to balance dates and years)	125
175		Section YZ 5 amended (New Zealand Memorial Museum Trust)	125
176		New Schedule 15 inserted (Excepted residential land)	126
177		Schedule 21B amended (Expenditure or loss for research and development tax credits)	126
178		Schedule 32 amended (Recipients of charitable or other public benefit gifts)	126

#### **Part 4**

#### **Amendments to other enactments**

##### ***Amendments to Tax Administration Act 1994***

179		Amendments to Tax Administration Act 1994	127
180		Section 3 amended (Interpretation)	127
181		Section 7AA amended (Authorisation to make payments under small business cashflow loan scheme)	128
182		Section 7AAB amended (Authorisation to make COVID-19 support payments)	128
183		Section 14 amended (Modes of communication: general provisions)	128
184		Section 14F amended (Giving information by personal delivery, post, fax, or electronic means)	128
185		Section 14G amended (Contact addresses)	128
186		Section 16C amended (Key terms)	128
187		Section 17B amended (Commissioner may require information or production of documents)	129
188		Section 22D amended (Key terms)	129

189	Section 25MB amended (Information from custodial institutions)	129
190	New section 25NB inserted (De minimis filing requirements for certain persons)	129
	25NB De minimis filing requirements for certain persons	129
191	New section 33F inserted (Research and development tax credits: extension of time for 2019–20 income year)	130
	33F Research and development tax credits: extension of time for 2019–20 income year	130
192	Section 43B amended (Non-active trusts may be excused from filing returns)	130
193	Section 54C amended (Information in relation to payment of RLWT)	131
194	Section 59BA amended (Annual return for trusts)	132
195	Section 68CB amended (Research and development tax credits: general approval)	132
196	Section 68CC amended (Research and development tax credits: greater than \$2 million approval)	133
197	New section 68CF inserted (Research and development tax credits: extension of time for approvals)	133
	68CF Research and development tax credits: extension of time for approvals	133
198	Section 89B amended (Commissioner may issue notices of proposed adjustment)	133
199	Section 89L (Application to High Court)	133
200	Section 89P amended (Challenge notice for taxpayer-initiated disputes)	133
201	Section 108 amended (Time bar for amendment of income tax assessment)	134
202	New section 108AB inserted (Time bar for amending assessment of KiwiSaver contributions)	134
	108AB Time bar for amending assessment of KiwiSaver contributions	134
203	Section 108B amended (Extension of time bars)	134
204	Section 113 amended (Commissioner may at any time amend assessments)	135
205	Section 113A amended (Correction of certain errors in subsequent returns)	135
206	Section 120KE amended (Provisional tax and rules on use of money interest)	135
207	Section 120KF repealed (Tolerance for provisional tax instalments)	135
208	Section 125 amended (Certain rights of objection not conferred)	135
209	Section 138E amended (Certain rights of challenge not conferred)	135
210	Section 138P amended (Powers of hearing authority)	136
211	Section 139A amended (Late filing penalty for certain returns)	136

212	Section 139AA amended (Non-electronic filing penalty)	136
213	Section 139B amended (Late payment penalty)	136
214	Section 141 amended (Tax shortfalls)	136
215	New section 141EE inserted (Penalty for acquiring or possessing electronic sales suppression tools)	136
	141EE Penalty for acquiring or possessing electronic sales suppression tools	136
216	Section 141FB amended (Reduction of penalties for previous behaviour)	137
217	New section 141GB inserted (Reduction of electronic sales suppression penalties)	137
	141GB Reduction of electronic sales suppression penalties	137
218	Section 142B amended (Due date for shortfall penalties)	138
219	Section 143 amended (Absolute liability offences)	138
220	Section 143A amended (Knowledge offences)	139
221	New sections 143BB and 143BC inserted	139
	143BB Manufacturing or supplying electronic sales suppression tools	139
	143BC Acquiring or possessing electronic sales suppression tools	139
222	Section 143D amended (Offences related to disclosure of certain information by persons other than revenue officers)	140
223	Section 157A amended (Application of Parts 7 and 9 to defaulters)	140
224	Section 173K amended (Application)	140
225	Section 183ABA amended (Remission in circumstances of emergency event)	140
226	Section 183ABAB amended (Remission of interest for taxpayers affected by COVID-19: general rules)	141
227	Section 183ABAC amended (Remission of interest on terminal tax for 2020–21 tax year for provisional taxpayers affected by COVID-19)	141
228	Section 183C amended (Cancellation of interest)	142
229	Section 225 amended (Regulations)	142
230	Section 225AA repealed (Regulations: co-operative dairy and marketing companies)	142
231	Schedule 7 amended (Disclosure rules)	142
232	Schedule 8 amended (Reporting of income information by individuals and treatment of certain amounts)	142
<b><i>Amendments to Child Support Act 1991</i></b>		
233	Amendments to Child Support Act 1991	143
234	Section 40AA amended (Interpretation for purposes of sections 40 to 45)	143
235	Section 40 amended (Estimated income)	143
236	Section 44 amended (End-of-year reconciliation)	143

237	Section 81A replaced (Amendments of assessments arising from living circumstances existing at time initial assessment made)	144
	81A Amendments of assessments arising from living circumstances existing at time when assessment begins	144
238	Section 87A amended (Four-year time bar for amendment of certain assessments)	144
239	Section 88 amended (Notice of assessment of formula assessment of child support)	145
240	Section 89H amended (Applications for exemptions under this subpart)	145
241	Section 152B amended (Offsetting child support payments)	145
242	Section 180D amended (Sections 180B and 180C to cover child support penalties)	145
243	Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)	145
244	Schedule 3 amended (Expenditure on children)	146
	<i><b>Amendments to KiwiSaver Act 2006</b></i>	
245	Amendments to KiwiSaver Act 2006	146
246	Section 4 amended (Interpretation)	146
247	Section 59A amended (When this subpart applies)	146
248	Section 59B amended (Initial back-dated validation)	146
249	Section 59C amended (Confirmed back-dated validation)	147
250	Section 59D amended (No confirmed back-dated validation)	147
251	Section 73 amended (Certain unremitted deductions and employer contributions entered in and paid out of holding account)	147
252	Section 78 amended (Treatment of certain unremitted deductions and employer contributions in holding account)	147
253	Section 80 amended (Refund by Commissioner of amounts paid in excess of required amount of deduction or if employee opts out)	147
254	Section 81 amended (Refund by provider of amounts paid in excess of required amount of contribution or if member opts out)	147
255	Section 81B amended (Residual refunds)	147
256	Section 83 amended (Unclaimed money held by Commissioner)	148
257	Section 85 amended (Time when deductions and employer contributions treated as received for interest purposes)	148
258	New cross-heading and section 91B inserted	148
	<i>Time bar for refunding contributions</i>	
	91B Time bar for refunding contributions	148
259	Section 100 amended (Refunds of employer contribution by Commissioner if employee opts out)	149
260	Section 101 amended (Refunds of employer contribution by provider)	149

261	Section 101AA amended (What Commissioner must do with employer contribution refunded by provider)	149
262	Section 114 amended (Refunds if employee loses, etc, savings suspension notice)	149
263	Schedule 1 amended (KiwiSaver scheme rules)	149
	<b><i>Amendments to Student Loan Scheme Act 2011</i></b>	
264	Amendments to Student Loan Scheme Act 2011	149
265	Section 211 amended (Meaning of notify)	149
266	Section 212 amended (Meaning of notify a person in writing)	150
	<b><i>Amendments to Unclaimed Money Act 1971</i></b>	
267	Amendments to Unclaimed Money Act 1971	150
	<b><i>Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020</i></b>	
268	Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020	150
	<b><i>Amendment to Child Support Amendment Act 2021</i></b>	
269	Amendment to Child Support Amendment Act 2021	150
	<b><i>Revocation of Co-operative Dairy Companies Income Tax Regulations 1955</i></b>	
270	Co-operative Dairy Companies Income Tax Regulations 1955 revoked	150
	<b><i>Revocation of Cooperative Milk Marketing Companies Income Tax Regulations 1960</i></b>	
271	Cooperative Milk Marketing Companies Income Tax Regulations 1960 revoked	151
	<b><i>Revocation of Cooperative Pig Marketing Companies Income Tax Regulations 1964</i></b>	
272	Cooperative Pig Marketing Companies Income Tax Regulations 1964 revoked	151
	<b>Schedule 1</b>	152
	<b>New Schedule 15 inserted into Income Tax Act 2007</b>	
	<b>Schedule 2</b>	153
	<b>New Part 6 inserted into Schedule 1 of Child Support Act 1991</b>	

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

**1 Title**

This Act is the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022.

**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 47, 51, 53(1) and (3), 54(2) and (3), 77, 97(1), (2), (4), (5), (6), (7), (8), (9), (10), and (11), 109, 110, 115, 136, 171(37), (41), and (42), and 174 come into force on 1 April 2008.
- (3) Sections 5(2) and (3), 6, 50, 96, 113, and 171(10) come into force on 1 January 2009.
- (4) Section 8(2) comes into force on 1 April 2010.
- (5) Section 80 comes into force on 4 September 2010.
- (6) Section 79 comes into force on 1 April 2011.
- (7) Section 65 comes into force on 1 April 2013.
- (8) Section 171(8) and (48) come into force on 1 April 2015.
- (9) Section 102 comes into force on 1 April 2016.
- (10) Sections 53(2), 135, 153, and 163 come into force on 30 March 2017.
- (11) Sections 22 and 164 come into force on 1 April 2017.
- (12) Sections 8(1) and 97(5) come into force on 1 July 2017.
- (13) Section 178(2) comes into force on 11 August 2017.
- (14) Sections 105, 106, 114, and 171(31) come into force on 1 July 2018.
- (15) Sections 84 and 171(25) and (49) come into force on 1 January 2019.
- (16) Section 186 comes into force on 18 March 2019.
- (17) Sections 60, 69, 78, 97, 108, 132, 133, 152, 168, 170, 177, 180(8), 191, 204, and 213(3) and (4) come into force on 1 April 2019.
- (18) Section 180(5) comes into force on 1 October 2019.
- (19) Sections 8(4) and 25 come into force on 24 February 2020.
- (20) Section 205 comes into force on 23 March 2020.
- (21) Sections 76, 81, 82, 87, 98, 99, 100, 101, 111, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 131, 161, 171(27) and (50), 189, 195, 196, 197, and 232 come into force on 1 April 2020.
- (22) Section 128 comes into force on 15 April 2020.
- (23) Section 178(3) comes into force on 4 May 2020.
- (24) Section 134(2), (3), and (4) come into force on 1 July 2020.
- (25) Section 58 comes into force on 1 August 2020.

- (26) Section 227(1)(a) and (4) come into force on 7 August 2020.
- (27) Section 116 comes into force on 30 January 2021.
- (28) Section 180(6) comes into force on 1 March 2021.
- (29) Sections 48, 49, 59, 61, 62, 63, 64, 66, 70, 71, 72, 73, 74, 75, 103, 112, 171(2), (3), (4), (5), (6), (7), (9), (12), (14), (15)(b), (17), (19), (20), (21), (22), (23), (24), (26), (28), (29), (32), (33), (34), (35), (36), (40), (43), (44), (45), (46), (47), and (51), 176, and 193 come into force on 27 March 2021.
- (30) Sections 171(30), 256, and 267 come into force on 30 March 2021.
- (31) Sections 134(1), 155, 156, 157, 158, 159, 175, 178(4), 188, 242, and 243(1), (2), and (3) come into force on 1 April 2021.
- (32) Sections 247, 248, 249, 250, and 263 come into force on 1 September 2021.
- (33) Section 173 comes into force on 8 September 2021.
- (34) Sections 237, 238, 239, 240, and 241 come into force on 26 October 2021.
- (35) Section 226 comes into force on 25 March 2022.
- (36) Sections 194 and 269 come into force on 31 March 2022.
- (37) Sections 52, 55, 56, 57, 68, 86, 88, 89, 90, 91, 92, 93, 94, 95, 104, 107, 147, 148, 151, 154, 160, 171(15)(a), (16), (18), and (38), 180(7), 190, 192, 211, 212, 213(1), 228, 234, 235, 236, and 244 come into force on 1 April 2022.
- (38) Sections 5(4), 12, 19, 21(1), (3), (4), and (9), 24, 26(4) and (6), 27(4) and (6), 28, 29, 30, 31(3), (6), (8), (9), (10), and (12), 32, 33, 34, 36, 37(6), (7), and (8), 38(2), (3), and (5), 39, 40, 42, 43, 44, 219(2) and (7), and 220(2), (3), and (5) come into force on 1 April 2023.
- (39) Section 231(2) comes into force on a date to be set by Order in Council.
- (40) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

---

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

---

## **Part 1**

### **Annual rates of income tax**

#### **3 Annual rates of income tax for 2021–22 tax year**

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2021–22 tax year, be paid at the basic rates specified in schedule 1 of that Act.

## Part 2

### Amendments to Goods and Services Tax Act 1985

#### 4 Amendments to Goods and Services Tax Act 1985

This Part amends the Goods and Services Tax Act 1985.

#### 5 Section 2 amended (Interpretation)

(1) In section 2(1),—

(a) insert, in appropriate alphabetical order:

**GST group** means a group of persons that meets the requirements of section 55

(b) insert, in appropriate alphabetical order:

**issuing member** means the member responsible under section 55 or 55B for issuing the tax invoice, credit note, or debit note for each supply made by a member of a GST group or supplier group

(c) insert, in appropriate alphabetical order:

**member supply** means a supply by a member of a GST group or supplier group

(d) replace the definition of **Pharmac** with:

**Pharmac** means the Pharmaceutical Management Agency established by section 46 of the New Zealand Public Health and Disability Act 2000

(e) replace the definition of **Pharmac agreement** with:

**Pharmac agreement** means an agreement to which Pharmac is a party and under which Pharmac agrees to list a pharmaceutical on the pharmaceutical schedule as defined in section 6 of the New Zealand Public Health and Disability Act 2000

(f) replace the definition of **pharmaceutical** with:

**pharmaceutical** means a pharmaceutical as defined in section 6 of the New Zealand Public Health and Disability Act 2000

(g) replace the definition of **supplier** with:

**supplier**, in relation to a supply of goods and services, means—

(a) for a supply to which paragraph (b) does not apply, the person who makes the supply; or

(b) for a supply that is subject to a provision in Part 9, the person who is treated by the provision as making the supply

(h) insert, in appropriate alphabetical order:

**supplier group** means a group of 2 or more registered persons who enter an agreement meeting the requirements of section 55B that 1 supplier is to issue

the tax invoice, credit note, or debit note for each supply of goods and services by 1 or more members of the group

(2) In section 2(1),—

(a) insert, in appropriate alphabetical order:

**cryptoasset** means a digital representation of value that exists in—

(a) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralised form and shared across different locations and persons; or

(b) another application of the same technology performing an equivalent function

(b) insert, in appropriate alphabetical order:

**cryptocurrency** means a cryptoasset that is not a non-fungible token

(c) insert, in appropriate alphabetical order:

**non-fungible token** means a cryptoasset that contains unique distinguishing identification codes or metadata

(d) replace the definition of **services** with:

**services** means anything which is not goods or money or cryptocurrency

(3) In section 2(1), definition of **goods**, replace “money or” with “money, cryptocurrency, or”.

(4) In section 2(1),—

(a) in the definition of **issuing member**, replace “tax invoice, credit note, or debit note” with “taxable supply information or supply correction information”:

(b) insert, in appropriate alphabetical order:

**recipient details**, for a taxable supply of goods or services, means—

(a) the name of the recipient; and

(b) one or more of the following items of information that are relevant to the recipient:

(i) an address of a physical location for the person such as a mailing or billing address:

(ii) a telephone number:

(iii) an email address:

(iv) a trading name other than the name of the recipient:

(v) a New Zealand business number:

(vi) a Uniform Resource Locator address for a web site

(c) insert, in appropriate alphabetical order:

**supply correction information** is defined in section 19E

(d) in the definition of **supplier group**, replace “tax invoice, credit note, or debit note” with “taxable supply information or supply correction information”:

(e) insert, in appropriate alphabetical order:

**supply information**, for a supplier and a recipient of a supply of goods or services, means information for the supply that includes—

(a) the name and registration number of the supplier; and

(b) the date of the invoice or, where no invoice is issued, the time of supply; and

(c) a description of the goods or services; and

(d) the amount of the consideration for the supply

(f) insert, in appropriate alphabetical order:

**taxable supply information**, for a taxable supply of goods or services, is defined in section 19E

(5) Subsection (4) applies for taxable periods starting on or after 1 April 2023.

Section 5(4)(b): amended (with effect on 30 March 2022), on 31 March 2023, by section 215(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 5(4)(e): amended (with effect on 30 March 2022), on 31 March 2023, by section 215(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

## 6 Section 3 amended (Meaning of term financial service)

(1) In section 3(1)(k)(iii), after “money”, insert “or cryptocurrency”.

(2) After section 3(1)(kaa), insert:

(kaab) the provision or transfer of ownership of an option over cryptocurrency:

(3) After section 3(1)(l), insert:

(lb) arranging the provision, or transfer, of ownership of cryptocurrency:

## 7 Section 3A amended (Meaning of input tax)

(1) After section 3A(2)(a), insert:

(ab) the supply is not of goods that—

(i) were acquired before 1 October 1986 by the registered person or by a person who, when acquiring the goods, is an associated person of the registered person; and

(ii) have not been owned, on or after 1 October 1986, by a person who, at the time, is not the registered person and not an associated person of the registered person; and

(2) Replace section 3A(3)(a)(i) with:

- (i) for goods received by the supplier from a person who, at the time of the receipt, is not an associated person, the tax fraction of the purchase price for the supplier; and
  - (ib) for goods received by the supplier from a person who, at the time of the receipt, is an associated person, the tax fraction of the purchase price for the most recent acquisition of the supply by a person who, at the time of the acquisition, is an associated person from a person who, at the time of the acquisition, is not an associated person; and
- (3) Subsections (1) and (2) apply for a supply of secondhand goods—
- (a) made in a taxable period starting on or after the day on which the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 receives the Royal assent:
  - (b) made under an agreement entered after 8 September 2021 and paid for on or after the start of the first taxable period starting on or after the day on which the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 receives the Royal assent.

#### **8 Section 5 amended (Meaning of term supply)**

- (1) In section 5(6AB), replace “the Commission” with “Fire and Emergency New Zealand”.
- (2) In section 5(6E)(b)(ii), replace “paragraphs (c) and (d)” with “paragraph (a)”.
- (3) In section 5(8A), after “member of the body corporate”, insert “, other than as reimbursement for a payment by the body corporate of an amount that would, if not charged to the body corporate, be payable by the member for an exempt supply to the member.”.
- (4) Repeal section 5(18).
- (5) In section 5(23),—
  - (a) replace “supply of goods” with “taxable supply of goods”:
  - (b) replace “on the date of settlement” with “on the date on which the error is found”.

#### **9 Section 6 amended (Meaning of term taxable activity)**

In section 6(3)(c)(iii), delete “statutory”.

#### **10 Section 11 amended (Zero-rating of goods)**

Replace section 11(1)(eb)(i) with:

- (i) are supplied to a recipient; and

**11 Section 11A amended (Zero-rating of services)**

In section 11A(1)(c), replace “to the extent that the services are supplied by the same supplier as part of the supply of services” with “to the extent that the services are part of a supply of services, relating to the same goods,”.

**12 New section 12C inserted (Information for importation of goods including distantly taxable goods)**

(1) After section 12B, insert:

**12C Information for importation of goods including distantly taxable goods**

A registered person who makes a supply of distantly taxable goods, on which tax at a rate greater than 0% is charged under section 8(1), must take reasonable steps to ensure that the New Zealand Customs Service has available, by the time of the importation of the goods,—

- (a) the name and registration number of the registered person:
- (b) information indicating the items included in the supply, or imported with the supply, for which the amount of tax included in the price of the supply is more than zero:
- (c) information indicating the items included in the supply, or imported with the supply, for which the amount of tax included in the price of the supply is zero:
- (d) information that is acceptable to the Commissioner in substitution for information referred to in paragraphs (a) to (c).

(2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.

**13 Section 15 amended (Taxable periods)**

- (1) In section 15(1), words before the paragraphs, after “following”, insert “or a period described in section 15E(2) that is equivalent to one of the following”.
- (2) In section 15(5)(a), after “last day of a month”, insert “or is a period of approximately 12 months consisting of taxable periods approved for the person and described in section 15E(2)”.
- (3) Subsections (1) and (2) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.

**14 Section 15B amended (Taxable periods aligned with balance dates)**

(1) After section 15B(4), insert:

(4B) For the purposes of subsection (4), the GST cycle of a person with a taxable period described in section 15E(2) is aligned with the person’s balance date if the end of a taxable period for the person corresponds under section 15E(2B) with the end of the month in which the balance date occurs.

(2) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

**15 Section 15C amended (Changes in taxable periods)**

- (1) In section 15C(1), replace “6-month period” with “6-month period, or to an equivalent period described in section 15E(2),”.
- (2) In section 15C(3), replace “2-month period” with “2-month period, or to an equivalent period described in section 15E(2)”.
- (3) In section 15C(3B), replace “1-month period” with “1-month period, or to an equivalent period described in section 15E(2)”.
- (4) In section 15C(3C), replace “2-month period” with “2-month period, or to an equivalent period described in section 15E(2)”.
- (5) Subsections (1), (2), (3), and (4) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.

**16 Section 15D amended (When change in taxable period takes effect)**

- (1) In section 15D(1)(a), after “is set”, insert “to a period consisting of calendar months”.
- (2) After section 15D(1)(a), insert:
  - (ab) applies under section 15C to change the basis on which the person’s taxable period is set to a period described in section 15E(2) and not consisting of calendar months; or
- (3) In section 15D(2), after “in taxable period”, insert “under subsection (1)(a) or (b)”.
- (4) After section 15D(2), insert:
  - (2B) A change in taxable period under subsection (1)(ab) takes effect at—
    - (a) the end of the taxable period in which the person applies; or
    - (b) the end of a later taxable period nominated by the registered person and approved by the Commissioner.
- (5) After section 15D(3), insert:
  - (3B) A change in taxable period continues to have effect until—
    - (a) the Commissioner withdraws approval for the basis on which the person’s taxable period is set because the Commissioner considers that the person does not have good commercial reasons for the basis:
    - (b) the person chooses, or is required, to have the person’s taxable period set on a different basis.
- (6) Subsections (1), (2), (3), (4), and (5) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.

**17 Section 15E amended (Meaning of end of taxable period)**

- (1) Replace section 15E(2) with:

- (2) Despite subsection (1), a registered person may apply under section 15C to the Commissioner for approval under section 15EB to have a taxable period that is—
- (a) equivalent to a 1-month period and has a last day that is an approved date of the month; or
  - (b) equivalent to a 1-month period and has a last day that is an approved day of the fourth week in each taxable period; or
  - (c) equivalent to a 2-month period and has a last day that is an approved date of the second month in each taxable period; or
  - (d) equivalent to a 2-month period and has a last day that is an approved day of the eighth week in each taxable period; or
  - (e) equivalent to a 6-month period and has a last day that is an approved date not more than 7 days before or after the last day of the sixth month in each taxable period; or
  - (f) equivalent to a 6-month period and has a last day that is an approved day of the week not more than 7 days before or after the last day of the sixth month in each taxable period.
- (2B) If a registered person has a taxable period with an approved last day or date that is not the last day of the month, the approved day or date for each taxable period and the end of the month to which the day or date is treated as corresponding for the purposes of the Act are determined using the following rules:
- (a) if an approved day or date for a month is before or on the fifteenth day of the month, the approved day or date is treated as corresponding to the end of the preceding month; and
  - (b) if an approved day or date for a month is after the fifteenth day of the month, the approved day or date is treated as corresponding to the end of the month; and
  - (c) successive taxable periods end on successive approved days or dates, unless subsection (2C) applies.
- (2C) A taxable period that starts after an approved day (the **change day**) ends on the second approved day following the change day if—
- (a) the change day is treated under subsection (2B) as corresponding to the end of the month of the change day; and
  - (b) the first approved day after the change day is treated under subsection (2B) as corresponding to the end of the month of the change day.
- (2) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

**18 New section 15EB inserted (Approval of taxable period not consisting of whole calendar months)**

- (1) After section 15E, insert:

**15EB Approval of taxable period not consisting of whole calendar months**

- (1) The Commissioner may approve under section 15C an end date for the taxable period of a registered person that is not the last day of the month if the Commissioner is satisfied that there are good commercial reasons for the registered person's chosen date.
- (2) The Commissioner may approve under section 15C a day of the week as the last day for the taxable period of a registered person if the Commissioner is satisfied that—
- (a) the use of the day requested would improve the alignment of the registered person's taxable periods with the registered person's accounting systems; and
  - (b) if the registered person is requesting a last day that is not within 7 days of the end of the month, the registered person's accounting systems do not allow the use of a last day within 7 days of the end of the month.
- (3) If a registered person receives approval under subsection (1) or (2) for a taxable period (the **new period**) that differs from the taxable period (the **old period**) for which the person makes returns before the approval is given,—
- (a) the last old period for which the registered person makes a return must end on or before the day that precedes, by the length of a new period, the first day or date approved for the new period; and
  - (b) the first new period for which the registered person makes a return begins after the end of the last old period referred to in paragraph (a).
- (2) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

**19 New cross-headings and sections 19E to 19Q inserted**

- (1) After section 19D, insert:

*Records of supplies*

**19E Definitions of types of record**

- (1) **Supply correction information**, for a taxable supply for which taxable supply information containing an inaccuracy has been issued, means—
- (a) the name and the registration number of the supplier; and
  - (b) information identifying the taxable supply information; and
  - (c) the date of the supply correction information; and

- (d) the correction to the taxable supply information, including, if relevant, a correction to the amount of tax charged for the supply.
- (2) **Taxable supply information**, for a taxable supply of goods or services, means,—
- (a) for a supply that is not referred to in paragraphs (d) to (g) and the consideration in money or money's worth for the supply exceeds \$1,000,—
- (i) the name and registration number of the supplier; and
  - (ii) recipient details for the recipient; and
  - (iii) *[Repealed]*
  - (iv) the date of the invoice, or where no invoice is issued, the time of supply; and
  - (v) a description of the goods or services; and
  - (vi) if the amount of tax charged is the tax fraction of the consideration for the supply, the amount of the consideration for the supply and a statement that the amount includes a charge in respect of tax; and
  - (vii) if subparagraph (vi) does not apply, the total amount of tax charged for the supply, the consideration for the supply excluding the tax, and the consideration for the supply including the tax:
- (b) for a supply that is not referred to in paragraphs (d) to (g) and the consideration in money or money's worth for the supply exceeds \$200 and does not exceed \$1,000,—
- (i) the name and registration number of the supplier; and
  - (ii) the date of the invoice or, where no invoice is issued, the time of supply; and
  - (iii) a description of the goods or services; and
  - (iv) if the amount of tax charged is the tax fraction of the consideration for the supply, the amount of the consideration for the supply and a statement that the amount includes a charge in respect of tax; and
  - (v) if subparagraph (iv) does not apply, the total amount of tax charged for the supply, the consideration for the supply excluding the tax, and the consideration for the supply including the tax:
- (c) for a supply that is not referred to in paragraphs (d) to (g) and the consideration in money or money's worth for the supply does not exceed \$200, the supply information for the supply:
- (d) for a supply referred to in section 19G, which relates to imported supplies, the information given by section 19G(2):

- (e) for a supply referred to in section 19H, which relates to secondhand goods, the information given by section 19H(2):
- (f) for a supply referred to in section 19L, which relates to supplies by a member of a GST group or supplier group, the information given by section 19L(1) for a supply made by a member of a GST group, or the information given by section 19L(2) for a supply made by a member of a supplier group:
- (g) for a supply referred to in section 19M, which relates to supplies of distantly taxable goods, the information given by section 19M(2).

#### **19F Records of supplies**

- (1) A registered person who makes a supply of goods or services, or who receives a supply of goods or services for the purposes of carrying on a taxable activity, must have a record of the taxable supply information and supply correction information for the supply.
- (2) Despite subsection (1), a registered person is not required to keep a record of the GST registration number of the supplier if the amount of consideration for the supply is \$200 or less.

#### **19G Records of imported supplies received by registered person**

- (1) A registered person who receives a supply of goods or services that is treated by section 8(4B) as being made in New Zealand, or who is required to account for output tax under section 20(3JC), must meet the requirements of subsection (2) for a record of the supply.
- (2) The person must have a record of the supply showing—
  - (a) the name and address of the supplier:
  - (b) the date of the invoice or, where no invoice is issued, the time of supply:
  - (c) a description of the goods or services supplied:
  - (d) the consideration for the supply:
  - (e) *[Repealed]*
  - (f) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(a):
  - (g) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(b).

#### **19H Records of secondhand goods received by registered person**

- (1) This section applies when a registered person—
  - (a) purchases a supply of secondhand goods, that is not a taxable supply, for more than \$200; and

- (b) claims an input tax deduction in respect of the supply.
- (2) The person must have a record of the supply showing—
  - (a) the name and address of the supplier; and
  - (b) the date on which the secondhand goods were supplied; and
  - (c) a description of the secondhand goods; and
  - (d) the quantity or volume of the secondhand goods; and
  - (e) the consideration for the supply.
- (3) *[Repealed]*

#### **19I Records of supplies to nominated recipients**

A person who is nominated to receive a supply of goods under a contract to which section 60B(3), (4), and (6) apply, and to which the person is not a party, must have a record of the supply showing—

- (a) the name and address of the supplier; and
- (b) the date on which payment for the supply is made; and
- (c) a description of the goods; and
- (d) the consideration for the supply.

#### **19J Records of supplies by members of GST group or supplier group**

Where taxable supply information or supply correction information has been issued in respect of a supply by an active member of a GST group under section 55(1AM) or a supplying member of a supplier group under section 55B, the member issuing the taxable supply information or supply correction information must keep a record of the supply that includes—

- (a) the name of the active member or supplying member; and
- (b) the address of the active member or supplying member; and
- (c) the registration number of the active member or supplying member, if any.

#### *Supply information and supply correction information*

#### **19K Taxable supply information: supplies by registered person**

- (1) A registered person who makes a taxable supply to another registered person must provide the recipient with taxable supply information for the supply within 28 days of a request for the taxable supply information.
- (2) Subsection (1) is overridden by subsections (4), (7), and (10) and section 19L.
- (3) A registered person who makes a taxable supply to a person other than a registered person must provide the recipient with taxable supply information for the supply within 28 days of a request for the taxable supply information.

- (4) A registered person who has a taxable supply from another registered person must provide the supplier with taxable supply information for the supply if—
- (a) the recipient and supplier agree that—
    - (i) the supplier will not issue taxable supply information under subsection (1) for taxable supplies by the supplier to the recipient to which the agreement relates; and
    - (ii) the recipient will issue taxable supply information, for each taxable supply by the supplier to the recipient to which the agreement relates; and
  - (b) the recipient and supplier record the reasons for entering the agreement if the terms of the agreement are not part of the normal terms of business between the recipient and supplier; and
  - (c) the Commissioner does not, before the supply, invalidate the agreement because the Commissioner considers that the recipient and the supplier have failed to comply with the agreement or with paragraph (b).
- (5) A registered person who provides taxable supply information under subsection (4) for a taxable supply must provide the supplier with taxable supply information for the supply within 28 days of the request for the taxable supply information, or by an alternative date agreed by the supplier and recipient.
- (6) If a supply of goods made under the exercise of a power is treated under section 5(2) as being a taxable supply of goods made by a person, the person who exercises the power must—
- (a) issue taxable supply information under subsection (1) or (3) for the person treated as being the supplier, as if the supplier were a registered person; and
  - (b) if the supplier is not a registered person, include the supplier's tax file number in the information instead of a registration number.
- (7) A supplier is not required to provide taxable supply information under subsection (1) or (3) for a taxable supply if subsection (8) does not apply and 1 or more of—
- (a) the amount of consideration for the supply does not exceed an amount (the **threshold amount**), which is \$200;
  - (b) the supplier is a non-resident supplier who makes a supply of distantly taxable goods to which section 8(3)(ab) applies;
  - (c) the supplier is a non-resident supplier who makes a supply of remote services to which section 8(3)(c) applies.
- (8) A supplier is required to provide taxable supply information under subsection (1) or (3) for a taxable supply if section 8(4F) applies to treat the supply as being made in New Zealand.

- (9) A non-resident supplier who makes a supply of distantly taxable goods to which section 8(3)(ab) applies or of remote services to which section 8(3)(c) applies may choose to provide taxable supply information for the supply to a recipient of the supply if—
- (a) the supply is not of a contract of insurance; and
  - (b) the supply of goods or services was incorrectly treated—
    - (i) under section 8(4D) or (4E) as being made in New Zealand when the supply should have been treated as being made outside New Zealand; or
    - (ii) under section 11A(1)(x) as not being zero-rated when the supply should have been zero-rated; and
  - (c) the value of the supply, in New Zealand currency as at the time of the supply, does not exceed \$1,000; and
  - (d) the recipient either or both—
    - (i) notifies the supplier that the recipient is a registered person;
    - (ii) provides the supplier with the registration number or New Zealand business number of the recipient.
- (10) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that taxable supply information be provided under this section, the Commissioner may determine that, for a supplier or a class of suppliers, subject to any conditions that the Commissioner may consider necessary,—
- (a) any 1 or more of the particulars specified in section 19E(2) shall not be contained in the taxable supply information; or
  - (b) taxable supply information is not required to be provided.

**19L Taxable supply information: supplies by member of GST group or supplier group**

- (1) Taxable supply information for a member supply made by an active member of a GST group under section 55 must include—
- (a) either—
    - (i) the name and registration number of the supplier; or
    - (ii) the name and registration number of the representative member of the GST group; and
  - (b) the other information that would be required if the supplier were not a member of a GST group.
- (2) Taxable supply information for a member supply made by a supplying member of a supplier group under section 55B must include—
- (a) either—

- (i) the name and registration number of the supplier; or
  - (ii) the name and registration number of the issuing member for the supplier group; and
- (b) the other information that would be required if the supplier were not a member of a supplier group.
- (3) Taxable supply information for a member supply made by an active member of a GST group is treated as being provided by the issuing member for the GST group or by the representative member if the GST group does not have an issuing member.
- (4) Taxable supply information for a member supply made by a supplying member of a supplier group is treated as being provided by the issuing member for the supplier group.

**19M Taxable supply information: goods included in supplies of distantly taxable goods**

- (1) A registered person who makes a supply of distantly taxable goods at a price that includes tax under section 8(1) at a rate of more than zero must provide to the recipient of the supply, at the time of the supply, information for the goods in the supply and for other goods imported with the supply that contains the particulars given by subsections (2) and (3) or alternative particulars acceptable to the Commissioner.
- (2) The taxable supply information required by subsection (1) is—
  - (a) the taxable supply information that would be required if the goods supplied were not distantly taxable goods and not imported with distantly taxable goods;
  - (b) the date upon which the receipt is issued;
  - (c) information indicating the items for which the amount of tax included is more than zero;
  - (d) information indicating the items for which the amount of tax included is zero.
- (3) The consideration for the goods may be expressed in the currency of the consideration received by the supplier.
- (4) A registered person who omits to issue taxable supply information for a supply as required by subsection (1) and is requested by the recipient of the supply to provide taxable supply information for the supply must provide the information within 10 working days after the request.

**19N Supply correction information**

- (1) This section applies where a registered person has previously issued taxable supply information that includes an inaccuracy.

- (2) Where a registered person has provided to a person (the **recipient**) taxable supply information that includes an inaccuracy in the amount of tax charged, or the registered person has taken a tax position for a supply to the recipient in accounting for an incorrect amount of output tax on the supply, and subsections (3), (4), and (7) do not apply, the registered person must provide to the person supply correction information for the supply.
- (3) A registered person is not required to provide supply correction information under subsection (2) for a supply if—
- (a) the tax shown in the taxable supply information for the supply exceeds the tax charged on the supply; and
  - (b) the excess arises as a result of the recipient's accepting a discount offered by the supplier—
    - (i) for prompt payment, and the terms of the prompt payment discount offer are stated in the taxable supply information; or
    - (ii) by agreement, and, if the terms of the agreement are not part of the usual business terms between the recipient and the supplier, the terms of the agreement are recorded by the recipient and supplier.
- (4) A registered person is not required to provide supply correction information under subsection (2) for a supply because part of the consideration shown in the taxable supply information for the supply has been rebated under a Pharmac agreement to Pharmac, whether Pharmac is acting on its own account or as an agent for a public authority.
- (5) A registered person who has received a taxable supply from another registered person (the **supplier**) may issue supply correction information under subsection (2) for taxable supply information for the supply if—
- (a) the registered person and the supplier agree that—
    - (i) the supplier will not issue supply correction information under subsection (2) for taxable supplies by the supplier to the registered person to which the agreement relates; and
    - (ii) the registered person will issue supply correction information, for each taxable supply by the supplier to the registered person to which the agreement relates; and
  - (b) the registered person and the supplier record the reasons for entering the agreement if the terms of the agreement are not part of the normal terms of business between the registered person and the supplier; and
  - (c) the Commissioner does not, before the supply correction information is issued, invalidate the agreement because the Commissioner considers that the registered person and the supplier have failed to comply with the agreement or with paragraph (b).

- (6) A supplier may issue supply correction information under subsection (2) to a recipient if—
- (a) the supply correction information relates to taxable supply information issued by the registered person for taxable supplies, or a class or classes of taxable supplies, made to the recipient, or to a class or classes of recipients that include the recipient; and
  - (b) the supplier’s records show that the information provided to the recipient, in the supply correction information and the taxable supply information for the supply, includes the details required under subsection (2) for each supply to the recipient to which the supply correction information relates.
- (7) Supply correction information for a supply may not be issued under subsection (2) after whichever of the following is the date that is, or is the earlier of the dates that are, applicable to the supply:
- (a) if the supply is not described in paragraph (b), the date that is 4 years from the end of the taxable period in which the registered person provides the return for the taxable period in which the supply was made:
  - (b) if the supply gives rise to an overpayment of tax that is described in section 45(1), (2), or (3) and the Commissioner is satisfied that the registered person took due care to avoid errors in the taxable supply information, the date that is 4 years from the end of the 4-year period referred to in the subsection that describes the overpayment:
  - (c) if the supply was not zero-rated, because section 11(1)(mb) was incorrectly applied to the supply, the date that is 7 years from the date of settlement of the transaction relating to the supply.
- (8) If a person claims to have lost supply correction information, the registered person who issued the information may provide a copy to the person.
- (9) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that supply correction information be provided under this section, the Commissioner may determine that, subject to any conditions that the Commissioner may consider necessary,—
- (a) any 1 or more of the particulars specified in section 19E(1) shall not be contained in the supply correction information; or
  - (b) supply correction information is not required to be provided.

**190 Treatment of fractional amounts of cent in information**

- (1) For taxable supply information or supply correction information that is required to show an amount of tax consisting of a number of dollars and cents together with a fraction or part of a cent, the fraction or part of the cent,—
- (a) if less than or equal to half of a cent, may be disregarded:

- (b) if more than half of a cent, may be shown as being equal to 1 cent.
- (2) A registered person may apply subsection (1) to—
- (a) each individual amount of tax relating to a supply; or
- (b) a total of individual amounts of tax relating to a supply.
- (3) A registered person must consistently apply 1 of the alternative approaches given by subsection (2) for a taxable period in which the registered person relies on subsection (1).

**19P Commissioner may approve use of symbols, etc, on electronically transmitted information**

- (1) The Commissioner may, for the purpose of facilitating the electronic transfer of supply information and supply correction information, approve the use of symbols, abbreviations, or other notations to represent any particulars required in taxable supply information or supply correction information that is transferred electronically.
- (2) An approval under subsection (1) may do 1 or more of the following:
- (a) apply generally, or to a registered person or class of registered persons specified by the Commissioner;
- (b) be limited to the cases and be subject to the conditions that the Commissioner thinks are appropriate;
- (c) be withdrawn or varied by the Commissioner at any time on the giving of such notice as is reasonable in the circumstances.
- (3) An approval under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

**19Q References to tax invoice, credit note, and debit note**

- (1) A reference in a document to a tax invoice is to be read as including a reference to taxable supply information to the extent necessary to reflect sensibly the intent of the document.
- (2) A reference in a document to a credit note is to be read as including a reference to supply correction information to the extent necessary to reflect sensibly the intent of the document.

- (3) A reference in a document to a debit note is to be read as including a reference to supply correction information to the extent necessary to reflect sensibly the intent of the document.
- (4) A reference in a document to a buyer-created tax invoice is to be read as including a reference to taxable supply information as described in section 19K(4), to the extent necessary to reflect sensibly the intent of the document.

- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(7) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(8) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(9) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(10) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(11) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(12) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(13) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(14) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(15) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(16) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(17) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(18) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(19) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(20) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(21) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 19(1): amended (with effect on 30 March 2022), on 31 March 2023, by section 216(22) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

## 20 New cross-heading above section 20 inserted

Before section 20, insert:

*Calculation of tax payable: deductions, apportionment, other adjustments*

## 21 Section 20 amended (Calculation of tax payable)

- (1) *[Repealed]*
- (2) In section 20(2),—
  - (a) in paragraph (a), replace “section 75” with “section 19F”:
  - (b) in paragraph (b), replace “section 24(7)” with “section 19H”.
- (3) In section 20(3)(f),—
  - (a) replace “paragraph (a) of, or the proviso to, subsection (2)” with “section 19F”:
  - (b) replace “a tax invoice” with “taxable supply information”.
- (4) In section 20(3), proviso,—
  - (a) paragraph (a)(ii), replace “a tax invoice” with “taxable supply information”:
  - (b) paragraph (b)(i), replace “a tax invoice” with “taxable supply information”.
- (5) Replace section 20(3EB)(b)(i) with:

- (i) the registered person:
- (6) In section 20(3J), words before the paragraphs, replace “section 11(1)(mb)” with “section 11(1)(m) or (mb)”.
- (7) Replace section 20(3J)(a)(iii) with:
  - (iii) determine the amount that is the same proportion of the nominal GST component as the proportion of the use of the goods and services that is non-taxable use; and
  - (iv) treat the amount determined under subparagraph (iii) as output tax, for attribution to a taxable period under subsection (4); and
- (8) Replace section 20(3L), (3LB), and (3LC) with:
  - (3L) For the purposes of subsection (3), a registered person who is non-resident may deduct input tax as defined in section 3A(1)(a) or (c) to the extent to which the registered person uses the goods or services for, or has the goods and services available for use in, making taxable supplies, treating all the supplies made by the person as if they were made and received in New Zealand.
  - (3LB) For the purposes of subsection (3), a registered person who is non-resident may deduct input tax as defined in section 3A(1)(b) if the deduction is not denied by subsection (3LC).
  - (3LC) A registered person who is non-resident may not deduct input tax as defined in section 3A(1)(b) if the imported goods are—
    - (a) supplied to a person (the **recipient**) who—
      - (i) is not a registered person; or
      - (ii) is a registered person and the supply is not for use in a taxable activity of the recipient; and
    - (b) outside New Zealand at the time of supply.
- (9) In section 20(4C), replace “a tax invoice” with “taxable supply information”.
- (10) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- (11) Subsections (2), (3), and (4) apply for taxable periods starting on or after 1 April 2023.

Section 21(1): repealed (with effect on 30 March 2022), on 31 March 2023, by section 217 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

## 22 Section 20H amended (Goods and services tax incurred in making financial services for raising funds)

- (1) Replace section 20H(1)(d) with:
  - (d) the funding support services are—

- (i) the issue or allotment of an interest or right (a **funding security**) that is a debt security, participatory security, equity security, or a cryptocurrency with similar features and function:
  - (ii) the renewal of a funding security:
  - (iii) the payment of an amount of interest, principal, or dividend for a funding security:
  - (iv) the provision or variation of a guarantee of the performance of obligations in the issue, allotment, or renewal of a funding security; and
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2017.

### 23 Section 21 amended (Adjustments for apportioned supplies)

- (1) After section 21(2)(ab), insert:
- (ac) the person has made an adjustment under section 21FB for a change in use of the goods or services and has not changed the use of the goods or services since that change:
- (2) Replace section 21(4B)(b)(i) with:
- (i) the registered person:

### 24 Section 21B amended (Adjustments when person or partnership becomes registered after acquiring goods and services)

- (1) Replace section 21B(1)(b) with:
- (b) at the time of registration or at a later time, the person or a partnership of which the person is a member (the **registered user**) uses the goods for making taxable supplies.
- (2) In section 21B(2), replace the words before the paragraphs with “The registered person may make an adjustment under section 20G, 21, or 21A if the registered user meets the requirements of subsection (3) for the supply, treating, as the first adjustment period, the period (the **initial period**) that—”.
- (3) Replace section 21B(3) with:
- (3) A registered user meets the requirements of this subsection for a supply by—
- (a) having a record of the details of the supply required by either of—
    - (i) section 19F for a taxable supply:
    - (ii) section 19H for a supply that is not a taxable supply; and
  - (b) using a method that provides a fair and reasonable result in identifying the percentage actual use of the goods or services in the initial period referred to in subsection (2).
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023.

**25 Section 21F amended (Treatment on disposal)**

- (1) Repeal section 21F(2) and (3).
- (2) In section 21F(4), replace the words before the formula with “Subject to subsection (6), the person must make a final adjustment of an amount calculated using the formula—”.
- (3) Replace section 21F(6) with:
- (6) If the disposal is of land that the person uses in the course or furtherance of a taxable activity of developing land or dividing land into lots, the final adjustment given by subsection (4) must not exceed—
  - (a) for a disposal of land that the person acquired as a zero-rated supply, the amount of output tax that is accounted for by the person under section 20(3J)(a)(iii), taking into account any later adjustments made under the apportionment rules in sections 21 to 21H; or
  - (b) for a disposal to which paragraph (a) does not apply, the amount that, when added to any deduction already claimed, produces a total amount equal to the amount of the full input tax deduction on acquisition referred to in section 21D(2).
- (4) In section 21F(7), replace “formulas in subsections (2) and (4)” with “formula in subsection (4)”.

**26 Section 24 amended and repealed (Tax invoices)**

- (1) In section 24(1)(b), delete “clearly marked “copy only” ”.
- (2) Replace section 24(2) with:
  - (2) A registered person who has a taxable supply from another registered person must provide the supplier with a tax invoice for the supply if—
    - (a) the recipient and supplier agree that—
      - (i) the supplier will not issue a tax invoice under subsection (1) for taxable supplies by the supplier to the recipient; and
      - (ii) the recipient will issue a tax invoice, for each taxable supply by the supplier to the recipient; and
    - (b) the recipient and supplier record the agreement and the reasons for entering the agreement if the terms of the agreement are not part of the normal terms of business between the recipient and supplier; and
    - (c) the Commissioner does not, before the supply, invalidate the agreement because the Commissioner considers that the recipient and the supplier have failed to comply with the agreement or with paragraph (b).
- (3) Repeal section 24(6)(a).
- (4) Repeal section 24.
- (5) Subsections (1), (2), and (3) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.

- (6) Subsection (4) applies for taxable periods starting on or after 1 April 2023.
- 27 Section 24BA amended and repealed (Shared tax invoices)**
- (1) In section 24BA(2), replace “each” with “the principal”.
- (2) In section 24BA(4), definition of **principal supplier**, replace paragraph (b) with:
- (b) the issuing member of a GST group or supplier group for the purposes of section 55 or 55B
- (3) In section 24BA(4), definition of **shared invoice**, replace paragraph (b) with:
- (b) are part of the same GST group or supplier group for the purposes of section 55 or 55B.
- (4) Repeal section 24BA.
- (5) Subsections (1), (2), and (3) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- (6) Subsection (4) applies for taxable periods starting on or after 1 April 2023.
- 28 Section 24BAB repealed (Receipts for supplies)**
- (1) Repeal section 24BAB.
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.
- 29 Section 24BAC repealed (Information for importation of goods including distantly taxable goods)**
- (1) Repeal section 24BAC.
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.
- 30 Section 24B repealed (Records to be kept by recipient of imported goods and services)**
- (1) Repeal section 24B.
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.
- 31 Section 25 amended (Credit and debit notices)**
- (1) Replace the heading for section 25 with “**Adjustments for inaccuracies**”.
- (2) Replace section 25(1) with:
- (1) This section applies where, in relation to a supply of goods and services by a registered person, the registered person issues a tax invoice, credit note, or debit note, or makes a return for a taxable period, containing an inaccuracy that is or arises from 1 or more of—
- (a) a cancellation of the supply:
- (b) a return, to the supplier, of all or part of the supply:
- (c) an incorrect description of the supply:

- (d) an incorrect amount of consideration:
  - (e) an incorrect place of supply:
  - (f) an incorrect time of supply:
  - (g) an incorrect rate of tax:
  - (h) an incorrect amount of tax charged:
  - (i) an incorrect description of the supplier or recipient of the supply.
- (3) Repeal section 25(1B).
- (4) In section 25(2), replace “output tax as specified in subsection (1)(e)” with “output tax for a taxable period as a consequence of an inaccuracy referred to in subsection (1)”.
- (5) In section 25(3),—
- (a) in the words before paragraph (a), replace “as specified in subsection (1)(d)” with “containing an inaccuracy referred to in subsection (1)”:
  - (b) after paragraph (b), insert:
    - (bb) the inaccuracy does not affect the amount shown on the tax invoice as tax charged, the supplier shall provide the recipient with a credit note in the form referred to in paragraph (a), or a debit note in the form referred to in paragraph (b), containing particulars of the inaccuracy and a correction of the inaccuracy:
  - (c) in paragraph (c), after “the excess”, insert “shown in a tax invoice of the tax charged or for the amount of the excess of the actual tax charged over the amount of tax shown in the tax invoice”:
  - (d) in paragraph (d), delete the words after “a copy”:
  - (e) replace paragraph (e) with:
    - (e) a supplier shall not be required to provide a recipient with a credit note under paragraph (a) where the amount of the excess referred to in that paragraph arises as a result of the recipient’s accepting a discount offered by the supplier—
      - (i) for prompt payment, and the terms of the prompt payment discount offer are stated in the tax invoice; or
      - (ii) by agreement, and, if the terms of the agreement are not part of the usual business terms between the recipient and the supplier, the terms of the agreement are recorded by the recipient and supplier:
- (6) Repeal section 25(3), (3A), (3B), and (3C).
- (7) Replace section 25(4) and (5) with:
- (4) If a registered person makes a deduction in a taxable period of input tax relating to a supply for which the person has a tax invoice and is then issued with a credit note or debit note showing, or otherwise knows, that the credit

- note or debit note includes an amount of output tax on the supply exceeding the correct amount, the amount of the excess tax is—
- (a) treated as being output tax charged on a taxable supply made by the registered person, to the extent that the input tax deducted relating to the supply exceeds the output tax properly charged on the supply; and
  - (b) attributed to the taxable period in which the credit note or debit note is issued or the registered person becomes aware of the excess.
- (5) If a registered person makes a deduction in a taxable period of input tax relating to a supply for which the person has a tax invoice and is then issued with a credit note or debit note showing that the correct amount of output tax on the supply exceeds the amount included in the tax invoice, the amount of the excess tax is treated as being input tax that is a deduction under section 20(3) in the taxable period in which the credit note or debit note is issued, to the extent that the output tax properly charged on the supply exceeds the input tax deducted relating to the supply.
- (8) In section 25(4),—
- (a) in the words before paragraph (a),—
    - (i) replace “a tax invoice” with “taxable supply information”;
    - (ii) replace “a credit note or debit note” with “supply correction information”;
    - (iii) replace “the credit note or debit note” with “the supply correction information”;
  - (b) in paragraph (b), replace “credit note or debit note” with “supply correction information”.
- (9) In section 25(5),—
- (a) replace “a tax invoice” with “taxable supply information”;
  - (b) replace “a credit note or debit note” with “supply correction information”;
  - (c) replace “the tax invoice” with “the taxable supply information”;
  - (d) replace “the credit note or debit note” with “the supply correction information”.
- (10) Repeal section 25(6) and (7).
- (11) Subsections (1), (2), (4), (5), and (7) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- (12) Subsections (3), (6), (8), (9), and (10) apply for taxable periods starting on or after 1 April 2023.

**32 Section 25AA amended (Consequences of change in contract for imported goods and services)**

- (1) In section 25AA(1)(a)(v), replace “a tax invoice” with “taxable supply information”.
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.

**33 Section 25AB amended (Consequences of change in contract for secondhand goods)**

- (1) Replace section 25AB(1)(a) with:
  - (a) the supply is affected by 1 or more of—
    - (i) a cancellation of the supply;
    - (ii) a return, to the supplier, of all or part of the supply;
    - (iii) an incorrect description of the supply;
    - (iv) an incorrect rate of tax;
    - (v) an incorrect amount of tax charged;
    - (vi) a change to the previously agreed consideration for the supply; and
- (2) In section 25AB(1)(d), replace “a tax invoice or credit note” with “taxable supply information or supply correction information”.
- (3) In section 25AB(2), replace “the event referred to subsection (1)(a) occurs” with “the error in the amount of input tax is found”.
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023.

**34 Section 25A repealed (Commissioner may approve use of symbols, etc, on electronically transmitted invoices, receipts, and credit and debit notes)**

- (1) Repeal section 25A.
- (2) Subsection (1) applies for taxable periods beginning on or after 1 April 2023.

**35 Section 43 amended (Deduction of tax from payment due to defaulters)**

- (1) After section 43(2), insert:

(2AA) If a person (the **liable person**) is liable to meet the obligations under this Act of a registered person (the **defaulting person**) that has made default in a payment to the Commissioner, the Commissioner may issue a notice under subsection (2) as if the liable person were a registered person that had committed the default of the defaulting person.
- (2) In section 43(2A), replace “subsection (1)” with “subsection (2)”.
- (3) In section 43(4), replace “revocation by the registered person” with “revocation by the registered person or liable person”.

- (4) In section 43(5), replace “to the registered person” with “to the registered person or liable person”.
- (5) In section 43(5B), replace “the registered person” with “the registered person or liable person” in each place.
- (6) In section 43(6),—
  - (a) replace “any registered person” with “a registered person or liable person”:
  - (b) replace “that registered person” with “the registered person or liable person”.
- (7) In section 43(7), replace “the registered person” with “the person”.
- (8) In section 43(9), replace “the registered person” with “the registered person or liable person”.

### **36 Section 53 amended (Registered person to notify change of status)**

- (1) In section 53(1)(d), replace “group” with “GST group” in each place.
- (2) In section 53(2), words before the paragraphs, replace “tax invoices and credit and debit notes” with “taxable supply information and supply correction information”.
- (3) Subsections (1) and (2) apply for taxable periods starting on or after 1 April 2023.

### **37 Section 55 amended (Group of companies)**

- (1) Replace the heading for section 55 with “**GST groups**”.
- (2) Before section 55(1), insert:
  - (1A) This section applies to companies meeting the eligibility requirements of subsection (1) or (8) and choosing to form a GST group.
  - (1AB) The rules in the section are intended to ensure that, with exceptions, the Act treats the members of a GST group as if the members were—
    - (a) as the GST group, a single company—
      - (i) operating separately each activity that each member would operate in the absence of this section; and
      - (ii) making or receiving each supply that each member, as part of an activity, would be treated in the absence of this section as making to, or receiving from, a person who is not a member; and
      - (iii) acting through the representative member in making elections, giving information other than tax invoices, credit notes, or debit notes, keeping records, and making payments required by the Act; and

- (iv) acting through the issuing member, or the representative member if the GST group does not have an issuing member, in giving tax invoices, credit notes, or debit notes; and
  - (b) as the GST group, sharing the responsibilities and liabilities under the Act of the single company; and
  - (c) as individual members, sharing with the representative member some of the individual responsibilities and obligations under the Act arising for the representative member from each activity and supply that would be an activity and supply of the member in the absence of this section.
- (1AC) Subsections (1AD) to (1AI) apply to the members of a GST group—
- (a) except in relation to a supply of services that is treated by section 8(4B) as being made in New Zealand; and
  - (b) unless a provision of the Act expressly provides otherwise.
- (1AD) An activity that would in the absence of this section be an activity of a member of the GST group is carried on by—
- (a) the representative member, as an activity of a registered person separate from other activities of the representative member; and
  - (b) no member of the GST group other than the representative member.
- (1AE) A supply that would in the absence of this section be a supply made by a member of the GST group to a person—
- (a) is a supply made as a registered person by the representative member to the person, if the person is not a member of the GST group; or
  - (b) is disregarded for the purposes of calculating the tax payable by the GST group for a taxable period, if the person is a member of the GST group, except if another provision requires otherwise.
- (1AF) A supply of goods and services that would in the absence of this section be made by a member of the GST group, and not be a taxable supply, is a supply by the representative member.
- (1AG) A supply of goods and services that would in the absence of this section be made to a member of the GST group, other than a supply that would in the absence of this section be a taxable supply by another member, is a supply to the representative member as a registered person.
- (1AH) If goods and services are acquired, or produced, or applied, by a member of a GST group (the **new member**) at a time before becoming a member of the GST group and there is a difference, for an adjustment period, between the percentage intended use by the new member of the goods and services for making taxable supplies and the percentage actual use by the representative member of the goods and services for making taxable supplies, the representative member, for the purposes of section 21(1), has—

- (a) acquired, or produced, or applied, the goods and services at the time with a percentage intended use for making taxable supplies equal to the percentage intended use of the new member; and
  - (b) made claims for input tax and adjustments of output tax, relating to the goods and services, when the same claims were made by the new member before becoming a member of the GST group.
- (1AI) Information provided to a member of the GST group under section 78F is provided to the representative member and information provided by a member of the GST group under section 78F is provided by the representative member.
- (1AJ) Subsections (1AK) to (8) apply to the members of a GST group unless a provision of the Act expressly provides otherwise or the context requires another result.
- (1AK) When part of the GST group, the members of the GST group have the same taxable period under sections 15 to 15E and the same accounting basis under section 19 or 19A.
- (1AL) The representative member is—
- (a) responsible for making elections of the GST group under the Act and making the returns, giving the information, subject to subsection (1AM), and keeping the records, required by the Act for the GST group; and
  - (b) treated as paying tax paid by a member of the GST group; and
  - (c) responsible for paying the tax payable by the members of the GST group, subject to subsection (1AO)(a).
- (1AM) A GST group may choose that the tax invoice, credit note, or debit note, for a taxable supply that would in the absence of this section be made by a member (the **active member**), be issued—
- (a) in the name of the active member, by the active member; or
  - (b) in the name of the representative member, by—
    - (i) the representative member; or
    - (ii) a member (the **issuing member**) whose identity and role are notified to the Commissioner by the representative member.
- (1AN) The representative member, and an issuing member or active member, of a GST group must meet the requirements of sections 24, 25, and 75 for tax invoices, credit notes, debit notes, and other records relating to supplies.
- (1AO) A person who is, or has been, a member of the GST group has the following responsibilities and liabilities:
- (a) joint and several liability with the other members of the GST group under subsections (1AP) and (1AQ) for all tax payable, and not paid, by the representative member for each taxable period, or part of a taxable period, in which the member is part of the GST group; and

- (b) the responsibilities and liabilities of a member of the GST group under the provisions of—
    - (i) sections 24 and 25; and
    - (ii) section 75, for the activities of the member while the member is part of the GST group; and
    - (iii) Part 8 (Registration), if the person is a registered person when the person is a member of the GST group.
- (1AP) If a member (the **leaving member**) leaves a GST group, the leaving member is relieved from liability for tax payable by the GST group for all or part of a taxable period if—
- (a) the assessment for the liability of the GST group is made after the later of—
    - (i) the date on which the leaving member is treated as leaving the GST group;
    - (ii) the date of the event that causes the leaving member to be treated as leaving the GST group; and
  - (b) the amount assessed is more than an earlier assessment of the GST group for the taxable period or part of the taxable period; and
  - (c) the Commissioner considers that the removal of the liability will not significantly prejudice the recovery, or likely recovery, of the amount of tax assessed for the taxable period or part of the taxable period; and
  - (d) the Commissioner notifies the leaving member and the representative member that the requirements of paragraph (c) are met.
- (1AQ) The responsibilities under subsection (1AO) of a person who is, or has been a member of a GST group—
- (a) are unaffected by the person’s ceasing to be part of the GST group or by a representative member’s ceasing to exist; and
  - (b) may be relieved by the Commissioner under subsection (1AP).
- (3) In section 55(1), words before the paragraphs, replace “group of companies” with “GST group”.
- (4) Replace section 55(1)(a) with:
- (a) at a time and under section IC 3 of the Income Tax Act 2007, the companies are a group of persons (the **eligibility group**) that—
    - (i) is a group of companies; or
    - (ii) is part of a group of companies; or
    - (iii) would be a group of companies but for 1 or more members being a multi-rate PIE or a look-through company; or
    - (iv) would be a group of companies but for 1 or more members being a listed PIE; and

- (5) In section 55(1)(b),—
- (a) words before the subparagraphs, replace “companies,—” with “companies meet either or both of the following requirements:”:
  - (b) replace subparagraph (ii) with:
    - (ii) as the eligibility group and in a 12-month period that includes the time, make supplies to persons outside the eligibility group that are taxable supplies, or would be taxable supplies if made by a registered person, and that have a total value of at least 75% of the total value of the taxable supplies and other supplies made in that period by persons in the eligibility group to persons outside the eligibility group.
- (6) In section 55(1AB)(a)(iii) and (iv), replace “tax invoices, credit notes, or debit notes” with “taxable supply information or supply correction information” in each place.
- (7) In section 55(1AM), replace “tax invoice, credit note, or debit note” with “taxable supply information or supply correction information”.
- (8) In section 55(1AN),—
- (a) replace “24, 25, and 75” with “19J and 19L”:
  - (b) replace “tax invoices, credit notes, debit notes, and other records relating to supplies” with “taxable supply information and supply correction information”.
- (9) In section 55(1B),—
- (a) replace “group of companies” with “GST group” in each place:
  - (b) replace “resulting group” with “resulting GST group”.
- (10) In section 55(2), replace “group of companies” with “GST group” in each place.
- (11) In section 55(3), words before the paragraphs, delete “by 2 or more companies”.
- (12) In section 55(4),—
- (a) replace “group of companies” with “GST group” in each place:
  - (b) words after paragraph (d), after “by the Commissioner”, insert “or from the date required by subsection (4AA)”.
- (13) After section 55(4), insert:
- (4AA) If the representative member applies under subsection (4) for a company to be a member of the GST group and the company is incorporated less than 12 months before the application and is eligible to be a member when it is incorporated, the Commissioner must grant the application from whichever date the representative member chooses of—
- (a) the date of the company’s incorporation:

- (b) the start of the taxable period following the date of the company's incorporation.
- (14) In section 55(4A), replace “group of companies” with “GST group”.
- (15) In section 55(5), replace “group of companies” with “GST group” in each place.
- (16) In section 55(6),—
- (a) replace “any group of companies” with “a GST group”;
  - (b) replace “shall be deemed to be” with “is”;
  - (c) replace “that group of companies” with “the GST group”.
- (17) Repeal section 55(7) and (7B).
- (18) In section 55(8), replace the words after paragraph (c) with “the Commissioner may accept that the registered persons are a GST group, and subsections (2) to (6) apply to the group of registered persons as a GST group and to each of the registered persons as a member of the GST group.”
- (19) Subsections (1), (3), (4), (5), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- (20) Subsection (2) applies for taxable periods starting on or after the day on which this Act receives the Royal assent and section 55(1AO), (1AP), and (1AQ), as inserted by subsection (2), additionally apply to transactions entered after 8 September 2021 and completed on or after the day on which this Act receives the Royal assent.
- (21) Subsections (6), (7), and (8) apply for taxable periods starting on or after 1 April 2023.

**38 New section 55B inserted (Supplier group and issuing member)**

- (1) After section 55, insert:

**55B Supplier group and issuing member**

- (1) Members of a group of 2 or more registered persons (the **supplier group**), each of which is not a member of the same GST group as another member of the supplier group and meets the requirements of subsection (2), may enter an agreement under which a single member (the **issuing member**) issues under section 24BA(3) tax invoices, credit notes, and debit notes for each supply of goods and services made, other than under section 5(2), by a member of the supplier group (the **supplying member**).
- (2) The requirements of this subsection are met if—
- (a) the members of the supplier group agree that—
    - (i) the issuing member must issue tax invoices, credit notes, and debit notes for each supply by a supplying member; and

- (ii) each member of the supplier group other than the issuing member must not issue tax invoices, credit notes, and debit notes for a supply by the member; and
  - (b) the agreement includes the name, address, and registration number of each member of the supplier group; and
  - (c) if the terms of the agreement differ from normal commercial terms agreed earlier between the members of the supplier group, each member of the supplier group records the circumstances taken into account by the member in entering the agreement; and
  - (d) The Commissioner has not invalidated the agreement because the Commissioner considers that the members of the supplier group have failed to satisfy the requirements of the agreement and this section.
- (3) The issuing member of a supplier group is responsible for the obligations under this Act of a supplying member making a supply.
- (4) When the members of a supplier group agree to have, or to change, the issuing member for the supplier group, the issuing member must notify the Commissioner of the member's role and provide the Commissioner with an undertaking to meet the obligations of an issuing member for the supplier group.
- (2) In section 55B(1), replace “section 24BA(3) tax invoices, credit notes, and debit notes” with “section 19J the taxable supply information and supply correction information”.
- (3) In section 55B(2)(a)(i) and (ii), replace “tax invoices, credit notes, and debit notes” with “taxable supply information and supply correction information” in each place.
- (4) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- (5) Subsections (2) and (3) apply for taxable periods starting on or after 1 April 2023.

### **39 Section 60 amended (Agents and auctioneers)**

- (1) In section 60(1),—
  - (a) replace “a tax invoice or a credit note or a debit note” with “taxable supply information or supply correction information” in each place;
  - (b) replace “that tax invoice or credit note or debit note” with “the taxable supply information or supply correction information”.
- (2) In section 60(2),—
  - (a) replace “with a tax invoice” with “with taxable supply information”;
  - (b) replace “a tax invoice or a credit note or a debit note” with “taxable supply information or supply correction information”.

- (3) In section 60(3), replace “a tax invoice or a credit note or a debit note” with “taxable supply information or supply correction information”.
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023.

#### **40 Section 75 amended (Keeping of records)**

- (1) In section 75(1), replace “tax invoices, credit notes, debit notes” with “taxable supply information, supply correction information”.
- (2) In section 75(2)(a), replace “tax invoices, credit notes, and debit notes” with “taxable supply information and supply correction information”.
- (3) After section 75(4), insert:
  - (4B) A registered person is not required to keep a record of the GST registration number of the supplier if the amount of consideration for the supply is \$200 or less.
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023.

Section 40(3): replaced (with effect on 30 March 2022), on 31 March 2023, by section 218 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section 40(4): inserted (with effect on 30 March 2022), on 31 March 2023, by section 218 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

#### **41 Section 75B amended (General rules for giving information or communicating matters)**

- (1) In section 75B(3), replace “post, fax, or electronic means” with “post, or electronic means”.
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.

#### **42 Section 78AA amended (Exceptions to effect of increase of tax)**

- (1) In section 78AA(11)(b), replace “a tax invoice” with “taxable supply information”.
- (2) In section 78AA(12),—
  - (a) replace “a tax invoice” with “taxable supply information”;
  - (b) paragraph (a), replace “tax invoice” with “taxable supply information”;
  - (c) paragraph (b), replace “a credit note or debit note” with “supply correction information”.
- (3) Replace section 78AA(13) with:
  - (13) If, in the absence of this subsection, the registered person would be required to provide supply correction information—

- (a) for an excess of tax charged in the taxable supply information for a supply,—
    - (i) the registered person may provide replacement taxable supply information for the supply; and
    - (ii) goods and services tax is charged on the supply under the replacement taxable supply information at the original rate:
  - (b) for a deficiency of tax charged in the taxable supply information for a supply, the registered person may provide replacement taxable supply information for the supply.
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023.

**43 Section 78B amended (Adjustments to tax payable for persons furnishing returns following change in rate of tax)**

- (1) Replace section 78B(2A)(f)(i) to (iii) with:
- (i) taxable supply information or supply correction information has been provided in accordance with sections 19K to 19N and is held by the registered person at the time the prescribed form is furnished in accordance with subsection (2); or
  - (ii) section 19K(7) provides that taxable supply information is not required to be issued or section 19N provides that supply correction information is not required to be issued; or
  - (iii) the registered person meets record-keeping requirements of section 19H, where the supply is a supply of secondhand goods to which that section relates.
- (2) Subsection (1) applies for taxable periods starting on or after 1 April 2023.

**44 Section 78BA amended (Adjustments to tax payable in relation to credit and debit notes following change in rate of tax)**

- (1) In the heading to section 78BA, replace “**credit and debit notes**” with “**supply correction information**”.
- (2) In section 78BA(1), replace—
- (a) “a debit note or credit note” with “supply correction information”;
  - (b) “that debit note or credit note” with “the supply correction information”;
  - (c) “the debit note or credit note” with “the supply correction information”.
- (3) In section 78BA(2),—
- (a) paragraph (c)(i), replace “a debit note or credit note” with “supply correction information”;
  - (b) paragraph (c)(ii), replace “tax invoice” with “taxable supply information”:

- (c) words after paragraph (c)(ii), replace “that debit note or credit note” with “the supply correction information”;
  - (d) words after paragraph (c), replace “the debit note or credit note or other notice” with “the supply correction information or other information”.
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023.

**45 Section 78G repealed (Railways vesting: zero-rating and timing of tax calculations and documents)**

- (1) Repeal section 78G.
- (2) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

### Part 3

#### Amendments to Income Tax Act 2007

**46 Amendments to Income Tax Act 2007**

This Part amends the Income Tax Act 2007.

**47 Section BC 5 amended (Taxable income)**

In section BC 5, list of defined terms, delete “tax loss”.

**48 Section CB 6A replaced (Disposal within 10 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**

*When this section applies: relationship with subject matter*

- (1A) This section applies if none of sections CB 6 to CB 12 apply.

*Some definitions*

- (1) In this section,—
  - (a) **10-year test land** means residential land to the extent to which, using a land area test, it is not new build land, and the land’s bright-line disposal date is within 10 years of the earliest of any of the applicable dates (**bright-line acquisition dates**) described in subsections (3) to (7C):
  - (b) **5-year test land** means residential land to the extent to which, using a land area test, it is new build land, and—
    - (i) the person acquires it no later than 12 months after the land becoming **new build land**; and

- (ii) the land's bright-line disposal date is within 5 years of the earliest of any of the applicable dates (**bright-line acquisition dates**) described in subsections (3) to (7C); and
- (iii) at the time of its disposal or at the time the instrument to transfer the land to another person is registered as described in subsection (3)(a), it meets the requirements of paragraph (a), (b), (d), (e), or (f) of the definition of **new build land** or would have met 1 of those requirements but for the destruction of the relevant place by natural disaster or fire.

*Income*

- (2) Subject to quantification under subsection (8), an amount that a person derives from disposing of residential land is income of the person to the extent to which the amount is for residential land that is—
- (a) 10-year test land:
  - (b) 5-year test land.

*Exception: death*

- (2B) 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.

*Disposal*

- (3) In the case where none of subsections (4) to (7C) are applicable, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is—
- (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) the latest date on which the person acquires the estate or interest in the land, if an instrument to transfer the land to the person is not registered on or before the bright-line disposal date.

*Change of trustees: disposal*

- (3B) For the purposes of subsection (3), and despite subsection (3)(a), in the case of a transfer of land to a trustee of a trust from a trustee of the trust, the date on which the relevant instrument was registered is treated as—
- (a) the earliest 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 (the **first date**), if there has been no intervening transfer to a person who is not a trustee; or

- (b) the first date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.

*Subdivision*

- (4) In the case where the residential land results from the person subdividing other land (the **undivided land**), the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is—
  - (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) the latest date on which the person acquires the estate or interest in the undivided land, if the land is not registered as described in paragraph (a) at the bright-line date.

*Change of trustees: subdivision*

- (4B) For the purposes of subsection (4), and despite subsection (4)(a), in the case of a transfer of land to a trustee of a trust from a trustee of the trust, the date on which the relevant instrument was registered is treated as—
  - (a) the earliest 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 (the **first undivided date**), if there has been no intervening transfer to a person who is not a trustee; or
  - (b) the first undivided date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.

*Leases with perpetual right of renewal*

- (5) In the case where the residential land is a freehold estate in residential land, acquired as the owner of a leasehold estate with a perpetual right of renewal, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is the date the leasehold estate was granted.

*Joint tenancy converted to tenancy in common*

- (5B) In the case and to the extent to which the residential land is held as a tenant in common in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a joint tenant nominally in the same share equal to the same joint owners, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is the date the joint tenancy was acquired.

*Tenancy in common converted to joint tenancy*

- (5C) In the case and to the extent to which the residential land is held as a joint tenant nominally in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a tenant in common

in the same share equal to the same joint owners, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is the date the tenancy in common in equal shares was acquired.

*Dividing from and merging with pre-existing land*

- (5D) To the extent to which land (**land A**) is either transferred by a person and, before transfer from them, was part of other land (**pre-existing land**) that a person owned, or is transferred to a person and, after transfer to them, merges with other land (also **pre-existing land**) that the person owns, an instrument of transfer for the transfer is treated as not being for the pre-existing land.

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

- (6) In the case where the residential land is acquired as the result of the completion of a land development or subdivision, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is the date the person enters into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

*Residential land transferred for certain family trusts*

- (7) For residential land transferred to trustees or original settlors of certain family trusts, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is given by section CB 6AB.

*Residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts*

- (7B) For residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is given by section CB 6AC.

*Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi*

- (7C) For certain transfers of residential land included in settlement of claim under the Treaty of Waitangi, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is given by section CB 6AE.

*Quantification*

- (8) Despite subsection (1), the amount of income that a person (**person A**) derives for disposing of 10-year test land or 5-year test land, as the case may be, is reduced by the amount calculated using the following formula:

$$\text{unadjusted income} \times (\text{exempted non-predominant main home days} \times \text{main home percentage} + \text{exempted predominant main home days}) / \text{total days}.$$

*Definition of items in formula*

- (9) The items in the formula are defined in subsections (10) to (11D), and subsection (11E) provides an exception.

*Unadjusted income*

- (10) **Unadjusted income** is person A's amount of income for disposing of the 10-year test land or 5-year test land under subsection (2), ignoring this formula.

*Exempted non-predominant main home days*

- (11) **Exempted non-predominant main home days** is the total number of—
- (a) days within the land's bright-line period that the land has been used for a dwelling that was the main home for 1 or more main home persons:
  - (b) days in a period that is equal to or shorter than the exempt main home period limit if, for the period, the land has not been used for a dwelling that was the main home for 1 or more main home persons, and—
    - (i) the start of the period adjoins either a day described in paragraph (a) or the start of the land's bright-line period; and
    - (ii) the end of the period adjoins either a day described in paragraph (a) or the end of the land's bright-line period; but
  - (c) does not include any exempted predominant main home days.

*Main home percentage*

- (11B) **Main home percentage** is the percentage area of the land that, during the **exempted non-predominant main home days** has been used as a main home.

*Exempted predominant main home days*

- (11C) **Exempted predominant main home days** is the total number of exempted predominant main home days under section CB 16A.

*Total days*

- (11D) **Total days** is the total number of days in the land's bright-line period.

*Exception to quantification*

- (11E) Subsection (8) does not apply if person A is described in section 16A(3).

*Relationship with subject matter*

- (15) For the purposes of calculating a person's net income in relation to the disposal of residential land for which they derive an amount of income under this section, sections FC 9B, FC 9C, and FC 9D (which relate to residential land) provide disposal and acquisition amounts for transactions that subsections (7) to (7C) of this section apply to.

Defined in this Act: bright-line acquisition date, bright-line date, bright-line period, dispose, estate, exempt main home period limit, exempted predominant main home day, interest, land, main home, mortgage, new build land, person, residential land, trustee, year

**CB 6AB Residential land transferred in relation to certain family trusts and other capacities***Transfer to trustee*

- (1) If a trustee holds land on a rollover trust, then the bright-line acquisition date for the land, when the trustee disposes of it, is the bright-line acquisition date that the settlor had for the land before transfer to the trustee. The transfer to the trustee must be on or after 1 April 2022.

*Transfer to original settlor*

- (2) If a person (an **original settlor**) holds land that was transferred back to them from a trustee of a trust that the original settlor originally settled, and the trust is a rollover trust, then the bright-line acquisition date for the land, when the original settlor disposes of it, is the bright-line acquisition date that the trustee had for the land before transfer to the original settlor. The transfer to the original settlor must be on or after 1 April 2022.

*Transfer to or from different capacity, proportionality*

- (3) For the purposes of applying subsections (1) and (2) for a person who is a settlor in the case of subsection (1) or an original settlor in the case of subsection (2), the person may have a capacity other than settlor or original settlor (for example: LTC owner). However, in the case of an original settlor, subsection (2) does not apply unless the land transferred back to them from the relevant trustee is—
- (a) the same land that they originally settled and all other original settlors also get back their land; or
  - (b) in part the same land that they originally settled if that part and all other transfers back to other original settlors are in the same proportions as in the original settlement.

*Transfer to self*

- (4) If a person transfers the same land to themselves in a different capacity, and there is no intervening transfer to a third party, then the bright-line acquisition date for the land when they dispose of it to a third party in that different capacity is the bright-line acquisition date that the person first had for the land. The transfer to the different capacity must be on or after 1 April 2022, and must not be to or from a person in their capacity of settlor, beneficiary, or trustee.

*Key term: rollover trust*

- (5) **Rollover trust** means, at the time of a relevant transfer to or from a relevant trust,—
- (a) all relevant transfers to either trustees in the case of subsection (1) or to original settlors in the case of subsection (2) are either by people who are beneficiaries or to people who are beneficiaries, as applicable, 1 of whom is a principal settlor (for example: if the land is transferred to 2

people who are original settlors, then they must be beneficiaries of the trust, in addition to any other capacity they might have, and 1 of them must be a principal settlor); and

- (b) all principal settlors are beneficiaries of the trust; and
- (c) all principal settlors are close family associates; and
- (d) all beneficiaries are either close family beneficiaries, or trustees of another trust and at least 1 beneficiary of the other trust is a close family associate of a beneficiary of the relevant trust.

*Key term: close family beneficiary*

- (6) **Close family beneficiary** means, for the relevant trust, a beneficiary that is 1 or more of the following:
- (a) a principal settlor;
  - (b) a close family associate of another beneficiary who is also a principal settlor;
  - (c) a company in which a 50% or more voting interest, or a 50% or more market value interest if a market value circumstance exists, is owned by a beneficiary of the trust that is a close family associate of another beneficiary that does meet the principal settlor requirements for the trust;
  - (d) a charity registered under the Charities Act 2005.

*Key term: close family associates*

- (7) Two persons are **close family associates** if 1 or more of the following applies:
- (a) they are within 4 degrees of blood relationship;
  - (b) they are married, in a civil union, or in a de facto relationship;
  - (c) 1 person is within 4 degrees of blood relationship to the other person's spouse, civil union partner, or de facto partner.

*Exception*

- (8) This section does not apply for the transfer of shares in an LTC to or from a trustee.

#### **CB 6AC Residential land transferred in relation to certain Māori family trusts**

*Transfer to trustee*

- (1) If a Māori trustee holds land on a Māori rollover trust, the bright-line acquisition date for the land, when the Māori trustee disposes of it, is the bright-line acquisition date that the settlor had for the land before transfer to the Māori trustee. The transfer to the trustee must be on or after 1 April 2022.

*Transfer to original settlor*

- (2) If a person (an **original settlor**) holds land that was transferred back to them from a Māori trustee of a trust that the original settlor originally settled, and the trust is a Māori rollover trust, the bright-line acquisition date for the land,

when the original settlor disposes of it, is the bright-line acquisition date that the Māori trustee had for the land before transfer to the original settlor. The transfer to the original settlor must be on or after 1 April 2022.

*Transfer to or from different capacity, proportionality*

- (3) For the purposes of applying subsections (1) and (2) for a person who is a settlor in the case of subsection (1) or an original settlor in the case of subsection (2), the person may have a capacity other than settlor or original settlor (for example: LTC owner), but in the case of an original settlor, subsection (2) does not apply unless the land transferred back to them from the relevant trustee is—
- (a) the same land that they originally settled and all other original settlors also get back their land; or
  - (b) in part the same land that they originally settled if that part and all other transfers back to other original settlors are in the same proportions as in the original settlement.

*Key term: Māori rollover trust*

- (4) **Māori rollover trust** means, at the time of a relevant transfer to or from a relevant trust,—
- (a) all relevant transfers to either trustees in the case of subsection (1) or to original settlors in the case of subsection (2) are either by people who are beneficiaries or to people who are beneficiaries, as applicable (for example: if the land is transferred to 2 people who are original settlors, then they must be beneficiaries of the trust, in addition to any other capacity they might have); and
  - (b) all beneficiaries are—
    - (i) members of the same iwi or hapu;
    - (ii) descendants of the same tipuna; and
  - (c) the land is subject to Te Ture Whenua Maori Act 1993.

*Key term: Māori trustee*

- (5) **Māori trustee** means a trustee of a trust that is either a Maori authority, or eligible to elect to be a Maori authority, under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?).

#### **CB 6AE Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi**

*What this section applies to*

- (1) This section applies to a transfer by a person (a **transferor**) of residential land that is subject to Te Ture Whenua Maori Act 1993 and is part of the settlement of a claim under the Treaty of Waitangi to a trustee of a trust that is a Maori authority (a **recipient (person A)**), or eligible to elect to be a Maori authority,

under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?) (also **recipient (person A)**).

*Sections CB 6A and CZ 39: bright-line acquisition date*

- (2) For the purposes of sections CB 6A and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018), the recipient (person A) of the transfer of the residential land has the bright-line acquisition date that the transferor had, if the transfer is made on or after 1 April 2022.

Defined in this Act: bright-line acquisition date, dispose, disallowed residential property, Maori authority, residential land, trust, trustee

- (2) Section CB 6A, as inserted by 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, section CB 6A, as inserted by 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, section CB 6A, as inserted by 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.

Section 48(2): amended (with effect on 1 April 2022), on 28 March 2024, by section 182 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

#### **49 Section CB 16A amended (Main home exclusion for disposal within 10 years)**

- (1) Replace section CB 16A(1) and (2) with:

*Main home exclusion*

- (1) Section CB 6A does not apply to a person (**person A**) who disposes of residential land if, for the residential land (an **exempt main home**), all the days in the relevant bright-line period are exempted predominant main home days.

*Key term: exempted predominant main home day*

- (1B) **Exempted predominant main home day** means, for person A and residential land,—

- (a) a day within the land’s bright-line period that the land has been used predominantly for a dwelling that was the main home for 1 or more main home persons:
- (b) a day in a period that is equal to or shorter than the exempt main home period limit, if, for the period, the land has not been used predominantly for a dwelling that was the main home for 1 or more main home persons, but—
  - (i) the start of the period adjoins either a day described in paragraph (a) or the start of the land’s bright-line period; and
  - (ii) the end of the period adjoins either a day described in paragraph (a) or the end of the land’s bright-line period.

*Key term: exempt main home period limit*

- (1C) **Exempt main home period limit** means 365 days or, in the case of a period during which person A constructs a dwelling used as a main home for 1 or more main home persons, the length of that period, if it is reasonable.

*Key term: main home person*

- (1D) **Main home person** means, for person A, 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 that owns the residential land disposed of, 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 that is being disposed of.

- (2) In section CB 16A(3)(b), replace “residential land described in subsection (2)” with “exempt main homes described in subsection (1)”.
- (3) In section CB 16A(4), replace “residential land described in subsection (2)” with “exempt main homes described in subsection (1)”.
- (4) In section CB 16A(5)(a), replace “residential land described in subsection (2)” with “an exempt main home described in subsection (1)”.
- (5) Repeal section CB 16A(6).
- (6) In section CB 16A, list of defined terms, insert “exempt main home”, “exempt main home period limit”, “exempted predominant main home day”, and “main home person”.
- (7) Subsections (1), (2), (3), (4), (5), and (6) apply 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, subsections (1), (2), (3), (4), (5), and (6) do 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, subsections (1), (2), (3), (4), (5), and (6) do 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.

**50 Section CB 36 amended (Disposal of emissions units)**

- (1) After section CB 36(8C), insert:

*Cancellation of unit*

- (8D) If a person cancels an emissions unit, the person is treated as selling the unit for an amount of zero.
- (2) Subsection (1) applies for a person and an income year beginning on or after 1 January 2009, except for an income year for which the person chooses to rely on a tax position taken before the date on which this Act receives the Royal assent.

**51 Section CD 5 amended (What is a transfer of company value?)**

In section CD 5(2)(a), replace “forgiven” with “remitted”.

**52 Section CD 38 amended (General calculation rule for transfers of company value)**

- (1) Replace section CD 38(2)(b)(i) with:
  - (i) is the market value of the money or money’s worth, if any, that the person provides to the company as consideration for the transfer. To the extent to which the person provides a loan that is cross-border related borrowing under section GC 6(3B) (Purpose and application of rules and nature of arrangements), the market value of the money or money’s worth that the person provides is determined using the interest rate for a loan made on the same terms, including credit rating, as used for the adjustment to the interest made in accordance with sections GC 6 to GC 18 (which relate to transfer pricing arrangements), if any; and
- (2) Subsection (1) applies for income years starting on or after 1 April 2022.

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

- (1) In section CD 43(6B)(a), replace “forgiven” with “remitted”.

- (2) Repeal section CD 43(6B)(b).
- (3) In the heading to section CD 43(6D), replace “*forgiven*” with “*remitted*”.

**54 Section CD 44 amended (Available capital distribution amount)**

- (1) After section CD 44(7), insert:

*Disposal of shares received in a share-for-share exchange*

- (7B) A company that sells or transfers to a person that is not associated, for consideration, shares that are capital property, and the shares were received by the company in a share-for-share exchange to which section CD 43(9) and (10) (Available subscribed capital (ASC) amount) apply, has a capital gain amount, in addition to any other capital gain amount, equal to the subscriptions amount not included, because of the application of section CD 43(10), for the relevant issue of the company’s shares in the share-for-share exchange.
- (2) In the heading to section CD 44(8B), replace “*forgiven*” with “*remitted*”.
- (3) In section CD 44(8B), replace “*forgiven*” with “*remitted*”.

**55 Section CW 10 amended (Dividend within New Zealand wholly-owned group)**

- (1) In section CW 10(1)(e), replace “subsections (3) to (6)” with “subsections (5) and (6)”.
- (2) Repeal section CW 10(3).
- (3) Subsections (1) and (2) apply for the 2022–23 and later income years.

**56 New section CW 10B inserted (Dividends derived by council-controlled organisation holding companies)**

- (1) After section CW 10, insert:

**CW 10B Dividends derived by council-controlled organisation holding companies**

A dividend derived by a council-controlled organisation (the **recipient**) from another person (the **payer**) is exempt income of the recipient if—

- (a) the payer is—
  - (i) a council-controlled organisation; or
  - (ii) a port company, a subsidiary of a port company, or an energy company that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002; and
- (b) at the time the dividend is derived, 100% of the voting interests in the payer are held by—
  - (i) 2 or more local authorities; or
  - (ii) a combination of 1 or more Ministers of the Crown, on behalf of the Crown, and 1 or more local authorities; and

- (c) at the time the dividend is derived, a local authority holds 100% of the voting interests in the recipient.

Defined in this Act: council-controlled organisation, dividend, exempt income, local authority, voting interest

- (2) Subsection (1) applies for the 2022–23 and later income years.

**57 Section CW 39 amended (Local authorities)**

- (1) Replace section CW 39(4), other than the heading, with:

- (4) Subsection (2) does not apply to an amount of income that—

- (a) is derived by a local authority from—

- (i) a council-controlled organisation linked by ownership or control to the local authority, other than a council-controlled organisation operating a hospital as a charitable activity on behalf of the local authority; or

- (ii) an organisation linked by ownership or control to the local authority that is a port company, a subsidiary of a port company, or an energy company and that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002; and

- (b) is neither rates nor a dividend.

- (2) Subsection (1) applies for the 2022–23 and later income years.

**58 Section CW 47 amended (TAB NZ and racing clubs)**

After section CW 47(1)(d), insert:

- (e) the Racing Integrity Board:

- (f) Racing New Zealand.

**59 New section CW 62C inserted (Income from foreign-currency loans used for disallowed residential property)**

After section CW 62B, insert:

**CW 62C Income from foreign-currency loans used for disallowed residential property**

An amount of income of a person under section CC 3(1) (Financial arrangements) is exempt income if the person—

- (a) derives the income from a financial arrangement that is a loan of foreign currency to the person; and

- (b) uses the loan proceeds for disallowed residential property; and

(c) is denied by section DH 8(1) (Deduction not allowed) a deduction for interest incurred by the person under the financial arrangement.

Defined in this Act: disallowed residential property, exempt income, financial arrangement, interest, income

#### **60 Section CX 47 amended (Government grants to businesses)**

(1) After section CX 47(4), insert:

*Another exclusion*

(5) This section does not apply to an RDTI transition support payment.

(2) Subsection (1) applies for the 2019–20 and later income years.

#### **61 Section CZ 39 amended (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)**

(1) In section CZ 39(2)(a), replace “the date on which” with “the date (the **bright-line acquisition date**) on which”.

(2) In section CZ 39(2)(b), replace “their date of acquisition” with “their date of acquisition (the **bright-line acquisition date**)”.

(3) In section CZ 39(3)(a), replace “the date on which” with “the date (the **bright-line acquisition date**) on which”.

(4) In section CZ 39(3)(b), replace “their date of acquisition” with “their date of acquisition (the **bright-line acquisition date**)”.

(5) In section CZ 39(4), replace “grant of the leasehold estate” with “the date of the grant of the leasehold estate (the **bright-line acquisition date**)”.

(6) In section CZ 39(5), replace “the person entering into the agreement” with “the date of the person entering into the agreement (the **bright-line acquisition date**)”.

(7) After section CZ 39(5), insert:

*Joint tenancy converted to tenancy in common*

(5B) Despite subsection (2), for residential land transferred in the case and to the extent to which the residential land is held as a tenant in common in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a joint tenant nominally in the same share equal to the same joint owners, an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the date (the **bright-line acquisition date**) that the joint tenancy was acquired.

*Tenancy in common converted to joint tenancy*

(5C) Despite subsection (2), for residential land transferred in the case and to the extent to which the residential land is held as a joint tenant nominally in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a tenant in common in the same share equal to

the same joint owners, an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the date (the **bright-line acquisition date**) that the tenancy in common was acquired.

*Dividing from and merging with pre-existing land*

- (5D) To the extent to which land (**land A**) is either transferred by a person and, before transfer from them, was part of other land (**pre-existing land**) that a person owned, or is transferred to a person and, after transfer to them, merges with other land (also **pre-existing land**) that the person owns, an instrument of transfer for the transfer is treated as not being for the pre-existing land.

- (8) After section CZ 39(6), insert:

*Residential land transferred for certain family trusts*

- (6B) Despite subsections (2) to (5C), for residential land transferred, as described in section CB 6AB (Residential land transferred in relation to certain family trusts and other capacities), to trustees or settlors of certain family trusts, an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by section CB 6AB.

*Residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts*

- (6C) Despite subsections (2) to (5C), for residential land transferred, as described in section CB 6AC (Residential land transferred in relation to certain Māori family trusts), an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by section CB 6AC.

*Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi*

- (6D) Despite subsections (2) to (5C), for certain transfers of residential land, as described in section CB 6AE (Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi), an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by section CB 6AE.

- (9) In section CZ 39, list of defined terms, insert “bright-line acquisition date”.

**62 Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)**

- (1) In section CZ 40(5), words before the paragraphs, replace “group of persons” with “**group of persons**”.
- (2) In section CZ 40, list of defined terms,—

- (a) insert “group of persons”;
  - (b) delete “settlement”.
- (3) Subsections (1) and (2) apply 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, subsections (1) and (2) do 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.

**63 Section DB 7 amended (Interest: most companies need no nexus with income)**

After section DB 7(6B), insert:

*Relationship with subpart DH*

- (6C) Subpart DH (Interest incurred in relation to certain land) overrides this section for interest to which that subpart relates.

**64 Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)**

After section DB 8(6B), insert:

*Relationship with subpart DH*

- (6C) Subpart DH (Interest incurred in relation to certain land) overrides this section for interest to which that subpart relates.

**65 Section DB 20B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)**

In section DB 20B, list of defined terms, delete “depreciable intangible property”.

**66 Section DB 23C amended (Revenue account property: cost of some residential land reduced)**

- (1) In section DB 23C(1), replace “section CB 6A(6)” with “section CB 6A(8)”.
- (2) Replace section DB 23C(2) to (6) with:

*Excluded adjustment amount formula*

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

$$\text{cost} \times (\text{exempted non-predominant main home days} \times \text{main home percentage} + \text{exempted predominant main home days}) / \text{total days}.$$

*Definition of items in formula*

- (3) The items in the formula are defined in subsections (4) to (7).

*Cost*

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

*Exempted non-predominant main home days*

- (5) **Exempted non-predominant main home days** has the same meaning as in section CB 6A(11).

*Main home percentage*

- (6) **Main home percentage** has the same meaning as in section CB 6A(11B).

*Exempted predominant main home days*

- (7) **Exempted predominant main home days** has the same meaning as in section CB 6A(11C).

*Total days*

- (8) **Total days** has the same meaning as in section CB 6A(11D).

**67 Cross-heading above section DB 41 replaced**

Replace the cross-heading above section DB 41 with:

***Corporate gifting***

**68 Section DB 41 amended (Charitable or other public benefit gifts by company)**

- (1) After section DB 41(3), insert:

*Exclusion*

- (3B) This section does not apply to a local authority.

- (2) In section DB 41, list of defined terms, insert “local authority”.

- (3) Subsection (1) applies for the 2022–23 and later income years.

**69 Section DF 1 amended (Government grants to businesses)**

- (1) Replace section DF 1(1BA), other than the heading, with:

- (1BA) This section does not apply to the extent to which a payment described in subsection (1) is—

- (a) the payment of an R&D loss tax credit and the person’s expenditure is attributable to that payment:
- (b) an RDTI transition support payment and the person’s expenditure is attributable to that payment.

- (2) Subsection (1) applies for the 2019–20 and later income years.

**70 Section DG 2 amended (Application of this subpart)**

After section DG 2(3), insert:

*Relationship with subpart DH*

- (3B) A person is allowed a deduction for interest incurred for disallowed residential property to the extent to which the deduction is allowed under this subpart, and the deduction is not denied under subpart DH (Interest incurred in relation to certain land).

**71 Section DG 9 amended (Apportionment formula)**

In section DG 9(1), replace “sections DG 8 and DG 11 to DG 13” with “section DG 8”.

**72 Section DG 10 amended (Interest expenditure rules)**

- (1) After section DG 10(1), insert:

*Relationship with subpart DH*

- (1B) Despite this section and sections DG 11, DG 12, and DG 13, for the purposes of applying those sections,—
- (a) interest incurred in relation to disallowed residential property or to acquire an ownership interest in, or become a beneficiary of, an interposed residential property holder is ignored; and
  - (b) the debt to which the interest described in paragraph (a) relates is ignored; and
  - (c) a close company must, for an asset that is disallowed residential property, exclude from the asset value determined for the asset the lesser of—
    - (i) the asset value that would be determined for the asset if this paragraph did not apply to the asset;
    - (ii) the amount of the company’s debt under which the company incurs interest in relation to the asset.
- (2) In section DG 10, list of defined terms, insert “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

**73 Section DG 11 amended (Interest expenditure: close companies)**

- (1) Replace section DG 11(1)(b) with:

(b) the company incurs interest expenditure for the income year that is not for disallowed residential property nor to acquire an ownership interest in, or become a beneficiary of, an interposed residential property holder.

- (2) In section DG 11, list of defined terms, insert “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

**74 Section DG 14 amended (Interest expenditure: non-corporate shareholders)**

After section DG 14(3), insert:

*Relationship with subpart DH*

- (4) Despite subsections (1) and (2), the following are ignored for the purposes of applying this section:
- (a) interest, incurred by the person as shareholder in relation to shares of company A, for which a deduction is denied under section DH 8 (Deduction not allowed); and
  - (b) the debt to which that interest relates *multiplied by* the quarterly interposed residential property percentage described in section DH 8(4)(b).

**75 New subpart DH inserted (Interest incurred in relation to certain land)**

After subpart DG, insert:

Subpart DH—Interest incurred in relation to certain land

**DH 1 Interest related to certain land**

The purpose of this subpart is to deny a person a deduction for certain interest incurred in relation to certain land, despite any other provision in this Part. The provisions of this subpart override the general permission. In this subpart—

- (a) sections DH 2, DH 3, and DH 4 provide rules for when this subpart does and does not apply:
- (b) section DH 5 provides definitions of key terms. Section DH 6 provides a definition of **interposed residential property percentage**. Section DH 7 provides a definition of **grandparented residential interest**:
- (c) section DH 8 denies deductions for certain interest incurred in relation to certain land:
- (d) section DH 12 provides valuation rules.

Defined in this Act: amount, deduction, general permission, interest, land

**DH 2 When this subpart applies**

This subpart applies to interest incurred on or after 1 October 2021.

Defined in this Act: interest

**DH 3 When this subpart applies: companies**

This subpart applies to a company, if—

- (a) the company is a close company, and it is not an exempt Māori company:
- (b) the company is not a close company, and—
  - (i) it is a residential land company; and
  - (ii) it is not a member of a wholly-owned group:

- (c) the company is not a close company, and it is a residential land wholly-owned group member.

Defined in this Act: company, close company, exempt Māori company, residential land company, residential land wholly-owned group member, wholly-owned group

**DH 4 When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing**

*Exemption: new builds*

- (1) This subpart does not apply to interest incurred by a person to the extent to which it is—
- (a) incurred in relation to new build land; and
  - (b) incurred before the date that is 20 years after the earliest of the following dates for the new build land:
    - (i) the date on which the code compliance certificate described in section DH 5(7) is issued;
    - (ii) the date that, in the records of a local authority or building consent authority, the relevant conversion or remediation is recorded as having been “completed”, in the cases provided in section DH 5(7)(d) and (e);
    - (iii) the date that the relevant building work is entered into the records of a local authority or building consent authority as “substantially completed”, in the case of a code compliance certificate described in section DH 5(7) being issued subject to a building consent waiver or modification under clause B2.3.1 of the Building Code under the Building Act 2004.

*Exemption: business relating to land under section CB 7*

- (2) This subpart does not apply to interest incurred by a person to the extent to which it is incurred in relation to a business described in section CB 7 (Disposal: land acquired for purposes of business relating to land).

*Exemption: development, division, or building*

- (3) This subpart does not apply to interest incurred by a person (**person A**) to the extent to which it is incurred in relation to land (the **land**) that is or was subject to person A’s undertaking or scheme involving development, division, or building for the purpose of creating new build land. However, the exemption in this subsection ceases for person A to the extent to which the land is new build land owned by person A.

*Exemption: social, emergency, transitional, and support housing*

- (4) This subpart does not apply to interest incurred by a person for land, to the extent to which the land is used by a registered community housing provider under the Public and Community Housing Management Act 1992, by a depart-

ment listed in schedule 2, part 1 of the Public Service Act 2020, or by Kāinga Ora–Homes and Communities and its wholly-owned subsidiaries, solely for 1 or more of the following:

- (a) social housing, as defined in section 2 of the Public and Community Housing Management Act 1992:
- (b) temporary accommodation for people in need while they seek, or are assisted in finding, more permanent accommodation:
- (c) accommodation for people in need:
- (d) services connected with housing or accommodation described in paragraph (a), (b), or (c).

*Exemption: council housing*

- (5) This subpart does not apply to interest incurred by a person for land, to the extent to which the land is used by a council-controlled organisation, as defined in section 6 of the Local Government Act 2002, or a local authority, solely for 1 or more of the following:

- (a) housing for people assessed by a local authority as being eligible for accommodation at less than market rental:
- (b) services connected with housing described in paragraph (a).

*Exemption: Kāinga Ora–Homes and Communities and wholly-owned subsidiaries*

- (6) This subpart does not apply to Kāinga Ora–Homes and Communities and its wholly-owned subsidiaries.

Defined in this Act: code compliance certificate, dwelling, interest, land, local authority, new build land

## DH 5 Key terms

*Code compliance certificate*

- (1) **Code compliance certificate** means a code compliance certificate issued under the Building Act 2004.

*Disallowed residential property*

- (2) **Disallowed residential property**—

- (a) means land in New Zealand to the extent to which—
  - (i) it has a 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:
  - (ii) the owner has an arrangement that relates to erecting a place there, configured as a residence or abode, whether or not that place is or is to be used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:

- (iii) it is bare land that, under rules in the relevant operative district plan, may be used for erecting a place there, configured as a residence or abode, whether or not that place is or is to be used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:
- (b) does not include land to the extent to which it is excepted residential land.
- Excepted residential land*
- (3) **Excepted residential land** means land to the extent to which it is described in schedule 15.
- Exempt Māori company*
- (4) **Exempt Māori company** means—
- (a) a company that is a Maori authority or eligible to be a Maori authority, if,—
- (i) in the case that the company is not a member of a wholly-owned group, it is not a residential land company:
- (ii) in the case that the company is a member of a wholly-owned group, it is not a residential land wholly-owned group member:
- (b) a company that is wholly-owned by a Maori authority or wholly-owned by a company or trust that is eligible to be a Maori authority, if—
- (i) the wholly-owned company is not a residential land wholly-owned group member:
- (ii) in the case that the company is wholly-owned by a trust, the wholly-owned company is not a residential land company.
- Grandparented transitional loans*
- (5) **Grandparented transitional loan** means loan amounts denominated in New Zealand dollars, ignoring re-drawings or additional borrowings under the same loan facility on or after 27 March 2021, to the extent to which the loan amounts are—
- (a) first drawn down upon before 27 March 2021 for disallowed residential property:
- (b) first drawn down upon on or after 27 March 2021 for acquiring disallowed residential property, if the person acquired an estate or interest in the property before 27 March 2021:
- (c) first drawn down upon on or after 27 March 2021 for acquiring disallowed residential property, if the acquisition of the property resulted from an offer that is—
- (i) made on or before 23 March 2021; and
- (ii) irrevocable before 27 March 2021:

- (d) in relation to disallowed residential property for which a previous owner (the **original owner**) had loan amounts described in paragraphs (a) to (c), if—
  - (i) every transfer of the property since the original owner acquired it meets the requirements in section FB 3A, FC 9, FC 9B(a) to (e), or FO 17 (which relate to roll-over relief for the bright-line rule), treating the relevant requirements as applying to a transfer of the disallowed residential property on or after 27 March 2021 instead of a transfer of residential land on or after 1 April 2022; and
  - (ii) the loan amounts are equal to or less than the amount of the original owner’s loan at the time the original owner transferred the property:
- (e) for re-financing, under a new loan facility,—
  - (i) loan amounts described in paragraphs (a) to (d):
  - (ii) loan amounts to which this paragraph, or paragraph (f), has previously applied:
- (f) for re-financing, under a new loan facility,—
  - (i) loan amounts that would have been described in paragraphs (a) to (d) if it had been denominated in New Zealand dollars:
  - (ii) loan amounts to which this paragraph, or paragraph (e), has previously applied.

*Interposed residential property holder*

- (6) **Interposed residential property holder** means—
- (a) a close company for which the relevant person has voting interests or market value interests and the close company has, at the end of a quarter in the income year, an interposed residential property percentage of more than 10%:
  - (b) a company that is not a close company for which the relevant person has voting interests or market value interests, and the company has, at any time in the income year, an interposed residential property percentage of more than 50%:
  - (c) the trustees of a trust of which the relevant person is a direct or indirect beneficiary, if the relevant trust has, at any time in the income year, an interposed residential property percentage of more than 10%.

*New build land*

- (7) **New build land**—
- (a) means land to the extent to which it has a place that is configured as a self-contained residence or abode, if a code compliance certificate has been issued on or after 27 March 2020 evidencing that the place was added to the land or converted into a residence or abode; and

- (b) includes, for land described in paragraph (a), land exclusively used by residents of the place and also a reasonable proportion of shared areas of land, appurtenant to the place; and
- (c) includes land for which there is an agreement that a place that is configured as a self-contained residence or abode will be added to the land and a code compliance certificate will be issued on or after 27 March 2020 evidencing that the place was added to the land; and
- (d) includes land that has a place that was a hotel or motel, to the extent to which, by a conversion, it becomes places that are configured as self-contained residences or abodes, and the conversion is recorded in the records of a local authority or building consent authority as having been “completed” on or after 27 March 2020; and
- (e) includes land to the extent to which it has a place that is configured as a self-contained residence or abode, if the place was removed from the earthquake prone buildings register on or after 27 March 2020, and—
  - (i) a code compliance certificate has been issued on or after 27 March 2020 evidencing that building work to remediate the place is complete;
  - (ii) the completion of the building work to remediate the place is recorded in the records of a local authority or building consent authority as having been “completed” on or after 27 March 2020 and as having been verified by a suitably qualified engineer; and
- (f) includes land to the extent to which it has a place that is configured as a self-contained residence or abode, if the place was not previously weather-tight and a code compliance certificate has been issued on or after 27 March 2020 evidencing that at least 75% of the place’s cladding has been replaced.

*Residential land company*

- (8) **Residential land company** means a company for which the ratio calculated using the following formula and expressed as a percentage is equal to or greater than 50% at any time during the relevant income year:

$$(\text{disqualified property} + \text{indirect disqualified property}) \div \text{total assets}.$$

*Definition of items in formula*

- (9) In the formula in subsection (8),—
- (a) **disqualified property** is the value of the company’s property that is disallowed residential property, but excluding property described in section DH 4(2) or (3):
  - (b) **indirect disqualified property** is the value of shares that the company holds in other companies that are residential land companies:
  - (c) **total assets** is the total value of the company’s assets.

*Residential land wholly-owned group member*

- (10) **Residential land wholly-owned group member** means a company that is a member of a wholly-owned group of companies and the ratio for the group, calculated using the following formula, expressed as a percentage, is equal to or greater than 50% at any time during the relevant income year:

$$(\text{disqualified property} + \text{indirect disqualified property}) \div \text{total assets.}$$

*Definition of items in formula*

- (11) In the formula in subsection (10),—
- (a) **disqualified property** is the value, on a consolidated basis, of the wholly-owned group's property that is disallowed residential property, but excluding property described in section DH 4(2) or (3):
- (b) **indirect disqualified property** is the value of shares that the wholly-owned group holds in non-group companies that are residential land companies:
- (c) **total assets** is the total value, on a consolidated basis, of the wholly-owned group's assets.

Defined in this Act: code compliance certificate, company, disallowed residential property, excepted residential land, exempt Māori company, grandparented transitional loan, income year, interposed residential property percentage, land, new build land, residential land company, residential land wholly-owned group member, trustee, wholly-owned group

**DH 6 Interposed residential property percentage**

*Interposed residential property percentage*

- (1) **Interposed residential property percentage** is the amount, for an interposed residential property holder (the **person**), calculated using the following formula, expressed as a percentage:

$$\text{disqualified assets} \div \text{total assets.}$$

*Definition of items in formula*

- (2) In the formula in subsection (1)—
- (a) **disqualified assets** is the value of the person's property that is disallowed residential property, but excluding—
- (i) property described in section DH 4(1) to (3); and
- (ii) for a close company, property that is subject to subpart DG (Expenditure related to use of certain assets):
- (b) **total assets** is the value of the person's assets.

*Special rule: interposed residential property holder*

- (3) If the person is a company, the items **disqualified assets** and **total assets** in this section are calculated to also include assets held by lower tier companies to the company by applying section YC 4 (Look-through rule for corporate shareholders), treating the person as the ultimate shareholder, to attribute, in

proportion to the relevant voting interests and market value interests under that section, those lower tier assets.

*Further special rule*

- (4) For the purposes of this section, section DH 8, and the definition of **interposed residential property holder**, a loan entered into by a shareholder of a close company before it became an LTC is not affected by the company becoming an LTC.

Defined in this Act: close company, disallowed residential property, interposed residential property holder, market value interest, interposed residential property percentage, look-through company, voting interest

## DH 7 Grandparented residential interest

*Grandparented residential interest*

- (1) **Grandparented residential interest** means interest, for a person and a grandparented transitional loan, that is,—
- (a) interest for the loan’s principal to the extent to which the interest is incurred for disallowed residential property:
  - (b) if the loan (the **underlying loan**) is for both disallowed residential property and property that is allowed property described in subsection (3)(b), and the portion incurred for disallowed residential property cannot reasonably be determined, the portion of underlying interest calculated by reference to a notional loan principal (the **notional loan principal**) that the person is treated as having used to acquire, on 26 March 2021, the disallowed residential property to which the underlying loan relates. The initial notional loan principal is calculated using the formula in subsection (2) and the treatment of repayments is provided in subsection (4).

*Grandparented residential interest: loan portion when tracing cannot reasonably be determined: initial notional loan balance*

- (2) For the purpose of subsection (1)(b), the notional loan principal is calculated using the following formula, treating a negative amount as zero:

$$\text{outstanding borrowings} - \text{allowed property.}$$

*Definition of items in formula*

- (3) In the formula in subsection (2),—
- (a) **outstanding borrowings** is the principal of the underlying loan, determined as at 26 March 2021, to the extent to which it is for both disallowed residential property and property that is **allowed property** described in paragraph (b):
  - (b) **allowed property** is the total of—

- (i) the value of the person’s assets, determined as at 26 March 2021, that is not disallowed residential property, but ignoring assets that are not used in deriving assessable income; and
- (ii) to the extent to which the person’s assets are disallowed residential property described in section DH 4, the value of those assets, determined as at 26 March 2021.

*Grandparented residential interest: repayments*

- (4) A repayment of the underlying loan is applied against the notional loan principal to reduce it, to a minimum of zero, unless the source of the repayment is the disposal of allowed property described in subsection (3)(b). If the source of the repayment is the disposal of allowed property, then only the amount of the repayment that is in excess of the 26 March 2021 value of the allowed property is applied against the notional loan principal to reduce it, to a minimum of zero.

Defined in this Act: assessable income, disallowed residential property, grandparented transitional loan, interest, loan

**DH 8 Deduction not allowed**

*Deduction denied*

- (1) A person is denied a deduction for interest if and to the extent to which the interest is—
- (a) incurred for disallowed residential property, but excluding interest for a grandparented transitional loan:
  - (b) grandparented residential interest:
  - (c) incurred to acquire an ownership interest in, or become a beneficiary of, an interposed residential property holder:
  - (d) incurred to refinance a loan, interest for which is described in paragraph (a) or (c).

*Denial limited: grandparented residential interest*

- (2) The amount of the deduction denied for grandparented residential interest is limited to the following percentages for the following periods:

<b>Period that grandparented residential interest is incurred</b>	<b>Percentage denied</b>
1 October 2021 to 31 March 2022	25%
1 April 2022 to 31 March 2023	25%
1 April 2023 to 31 March 2024	50%
1 April 2024 to 31 March 2025	75%
On and after 1 April 2025	100%

*Denial limited using quarterly calculation periods: owners of interposed residential property holders*

- (3) The amount of the deduction denied for interest (the **interest**) incurred as the owner or to become an owner of an interposed residential property holder that is a close company is limited, for an income year, to the amount calculated quarterly using the following formula and summed for the entire income year:

interposed interest × quarterly interposed residential property percentage.

*Definition of items in formula*

- (4) In the formula in subsection (3)—
- (a) **interposed interest** is the interest, to the extent to which it is incurred in the relevant quarterly calculation period:
- (b) **quarterly interposed residential property percentage** is the interposed residential property percentage for the interposed residential property holder, calculated, as described in section DH 6, at the end of the relevant quarterly calculation period.

Defined in this Act: close company, disallowed residential property, deduction, grandparented residential interest, grandparented transitional loan, income year, interest, interposed residential property holder, interposed residential property percentage

**DH 9 Exception to limited denial of deductions: loans denominated in foreign currencies**

Despite section DH 8(2) and (3), a deduction is denied for all interest to which section DH 8(1) applies that is incurred under a loan in foreign currency.

Defined in this Act: deduction, interest, loan

**DH 10 Limited denial of deductibility: simplified calculation of interest affected***Application of section*

- (1) This section applies to a person who chooses to rely on the method of calculation it contains for calculating interest incurred under some loans and subject to limited denial of deductibility under this subpart.

*Purpose of section*

- (2) This section is intended to simplify the calculation, for a loan that may be drawn down in several tranches, of the amount of interest incurred in the period (the **affected interest period**) from 1 October 2021 to 31 March 2025 that is—
- (a) described in section DH 8(1); and
- (b) subject to limited denial of deductibility under section DH 8(2).

*Interest affected by limited denial of deductibility*

- (3) For a period in the affected interest period, the amount of interest incurred under the loan that is affected by limited denial of deductibility under section DH 8(2) is the total amount of interest that can be attributed for instants in the

period to the amount of the loan that is the lesser, for the instant in the period, of—

- (a) the amount (the **initial loan balance**) given by subsection (4):
- (b) the amount (the **affected loan balance**) given by subsection (5).

*Initial loan balance*

(4) The initial loan balance is the amount of the loan that is allocated to disallowed residential property for the date (the **start date**) that is—

- (a) the end of 26 March 2021, if paragraphs (b) and (c) don't apply; or
- (b) the date on which the loan is drawn down, if the loan is a grandparented transitional loan under paragraph (b) or (c) of the definition of that term and is drawn down on or after 27 March 2021; or
- (c) the date on which the loan is drawn down if the acquisition of the property is described in section FC 9B(a) to (f).

*Affected loan balance*

(5) The affected loan balance is the amount of the loan that is a grandparented transitional loan at an instant (the **balance time**) in the affected interest period, calculated using the following formula:

$$\text{initial loan balance} + (\text{advances} - \text{repayments}) - (\text{unrelated advances} - \text{unrelated repayments}).$$

*Definition of items in formula*

(6) In the formula in subsection (5)—

- (a) **initial loan balance** is the amount given by subsection (4):
- (b) **advances** is the total amount of the loan applied in transactions that occur in the period between the start date and the balance time:
- (c) **repayments** is the total amount of the loan repaid in transactions that occur in the period between the start date and the balance time:
- (d) **unrelated advances** is the total amount of the loan that is not a grandparented transitional loan in the period between the start date and the balance time:
- (e) **unrelated repayments** is the total amount of the loan repayments applied under section DH 7(4) against the notional loan principal in the period between the start date and the balance time.

Defined in this Act: disallowed residential property, interest, loan

## **DH 11 Denied amounts: treatment upon disposal of disallowed residential property**

*Disposal subject to section CB 6A or CZ 39: denied amount included as cost*

(1) An amount that relates to disallowed residential property and is denied under section DH 8 as a deduction that would have otherwise been allowed for a

person is treated under section DB 23 (Cost of revenue account property) as a cost for the person of the disallowed residential property in the income year of the disposal of the disallowed residential property if the amount derived from the disposal is income under section CB 6A or CZ 39 (which relate to disposals of residential land within a given period from acquisition).

*Disposal not subject to section CB 6A or CZ 39: denied amount allocated under section EL 4 or EL 7*

- (2) An amount that relates to disallowed residential property and is denied under section DH 8 as a deduction that would have otherwise been allowed for a person is allowed under this section as a deduction in the income year of the disposal of the disallowed residential property, and is subject to allocation under subpart EL (Allocation of deductions for excess residential land expenditure), if the disallowed residential property is or was residential rental property for purposes of subpart EL and the amount derived from the disposal of the disallowed residential property—
- (a) is income under a section other than section CB 6A or CZ 39; and
  - (b) is not income under section CB 6A or CZ 39.

Defined in this Act: deduction, disallowed residential property, income, income year

## DH 12 Valuation

*Land not used in undertaking creating new build land*

- (1) For the purposes of this subpart, a person's land, excluding land described in section DH 4(2) and (3), is—
- (a) valued at its most recent capital value or annual value set by a local authority; or
  - (b) if the land was acquired after the most recent local authority valuation, it is valued at its acquisition cost or, in the case of an associated person acquisition, its market value.

*Property used in undertaking*

- (2) For the purposes of this subpart, to the extent to which subsection (1) does not apply for a person's property, the property is—
- (a) valued using its tax book value; or
  - (b) if the person prepares financial accounts according to relevant accounting standards or legislative standards, valued using the financial accounts' valuation.

Defined in this Act: associated person, land, local authority, market value

## 76 Section DT 1A amended (Ring-fenced allocations)

In section DT 1A(4), replace “and IP 3” with “IP 3, and IP 3B”.

**77 Section DV 18B amended (Cost base for shares when debt forgiven within economic group)**

In the heading to section DV 18B, replace “**forgiven**” with “**remitted**”.

**78 Section EE 6 amended (What is depreciable property?)**

In section EE 6, list of defined terms, replace “research and development activities” with “research and development activity”.

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

- (1) In section EE 40(2), replace “not applied.” with “not applied, or if the rate for the item was not 0% in the case of a building with a rate of 0%.”
- (2) In section EE 40(3), replace “acquired it.” with “acquired it, or would have been allowed a deduction if the rate for the item was not 0% in the case of a building with a rate of 0%.”
- (3) Subsections (1) and (2) apply for the 2011–12 and later income years.

**80 Section EE 44 amended (Application of sections EE 48 to EE 51)**

In section EE 44(2)(d), after “insurance”, insert “or compensation”.

**81 Section EE 47 amended (Events for purposes of section EE 44)**

- (1) In the heading to section EE 47(4), delete “*or grandparented structure*”.
- (2) In section EE 47(4)(a), delete “or grandparented structure”.
- (3) In section EE 47(4)(b), delete “or grandparented structure” in each place.
- (4) Subsections (1), (2), and (3) apply for the 2020–21 and later income years.

**82 Section EE 48 amended (Effect of disposal or event)**

- (1) In section EE 48(3)(a), delete “or grandparented structure” in each place.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**83 Section EH 2 replaced (Income Equalisation Reserve Account)**

Replace section EH 2 with:

**EH 2 Deposits to be paid into Crown Bank Account**

Every deposit a person makes with the Commissioner under a scheme referred to in section EH 1(2)—

- (a) is public money; and
- (b) must be paid into a Crown Bank Account.

Defined in this Act: Commissioner, deposit, pay, person

**84 Section EJ 10B amended (IFRS leases)**

- (1) In section EJ 10B(6),—

- (a) replace “a deduction” with “income”;
  - (b) replace “has income” with “is allowed a deduction”.
- (2) Subsection (1) applies for income years starting on or after 1 January 2019.

**85 Section EK 1 replaced (Environmental Restoration Funds Account)**

Replace section EK 1 with:

**EK 1 Payment to Crown Bank Account**

Every payment a person makes to the Commissioner under section EK 2—

- (a) is public money; and
- (b) must be paid into a Crown Bank Account.

Defined in this Act: Commissioner, pay

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

- (1) In section EL 3, definition of **residential income**, after paragraph (a), insert:
- (ab) income which is the amount that the person derives under section CC 3 (Financial arrangements) for the income year in relation to a loan, denominated in a foreign currency, to the extent to which that loan relates to their residential portfolio:
- (2) Subsection (1) applies for the 2022–23 and later income years.

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

In section EL 14, replace “and IP 3” with “IP 3, and IP 3B”.

**88 Section EM 1 amended (Australian non-attributing shares and attributing FDR method interests)**

- (1) Replace section EM 1(2)(c) and (d) with:
- (c) section EM 4 provides rules for elections to choose that eligible hedges are subject to this subpart by applying either a hedge-by-hedge method or the portfolio method:
  - (d) section EM 5 provides the hedge-by-hedge methods to calculate fair dividend rate hedge portions for a person’s eligible hedges:
  - (db) section EM 5B provides the portfolio method to calculate fair dividend rate hedge portions for a person’s eligible hedges:
- (2) In section EM 1(3), replace “fair dividend rate hedge portions.” with “fair dividend rate hedge portions. However, subpart EW determines a person’s income and expenditure for the portion of a hedge that is not a fair dividend rate hedge portion.”

**89 Section EM 3 amended (What hedges does this subpart apply to?)**

- (1) After the heading to section EM 3, insert “*General rule*” as a subsection heading.
- (2) In section EM 3(d), replace “into; and” with “into or is acquired at its fair value; and”.
- (3) In section EM 3, insert as subsection (2):

*Exception*

- (2) Despite subsection (1), this subpart applies and a person’s hedge is an **eligible hedge**, if section EM 1 applies to the hedge, the person has not chosen to use section EM 5(4) and (5) for the hedge, and the hedge—
  - (a) is a contract to conditionally or unconditionally acquire or dispose of any currency in return for any other currency, or is a swap with legs denominated in any currency; and
  - (b) meets the requirements of subsection (1)(b) to (e); and
  - (c) is entered into only to rebalance currency exposures for the person’s other eligible hedges.

**90 Section EM 4 replaced (Irrevocable elections)**

Replace section EM 4 with:

**EM 4 Elections**

*Elections*

- (1) This subpart applies to a person’s eligible hedges, to the extent to which the hedges have fair dividend rate hedge portions as a result of an election under this section. The portion of a person’s eligible hedge that is not a fair dividend rate hedge portion does not give rise to income or expenditure under this subpart, despite any election under this section for the eligible hedge. To the extent to which this subpart does apply to calculate income and expenditure (*see*: section EM 6), the fair dividend rate hedge portion does not give rise to income or expenditure under any other subpart of this Act.

*Hedge-by-hedge: specific*

- (2) A person may choose to use a hedge-by-hedge method under section EM 5 for an eligible hedge, if the election under this subsection is made before the hedge and any hedge of the hedge is first entered into or acquired by the person.

*Hedge-by-hedge: general*

- (3) A person may choose to use a hedge-by-hedge method under section EM 5 for all eligible hedges if the election under this subsection is made before the hedge and any hedge of the hedge is first entered into or acquired by the person. The choice applies for all eligible hedges post-election.

*Specific: effect*

- (4) An election under subsection (2) is irrevocable for the life of the relevant hedge, unless the person may choose and does choose, under subsection (6), to use the portfolio method.

*General: effect*

- (5) An election under subsection (3) may be changed before the relevant hedge and any hedge of the hedge is first entered into or acquired by the person, but is irrevocable for the life of the relevant hedge, unless the person may choose and does choose, under subsection (6), to use the portfolio method.

*Portfolio*

- (6) A person that uses a **unit valuation period**, under section EX 53 (Fair dividend rate periodic method), of 1 month or less may choose the portfolio method under section EM 5B.

*Portfolio: effect*

- (7) An election under subsection (6) is irrevocable for 2 years unless the Commissioner notifies the person that the person may revoke earlier. An election applies for all eligible hedges post-election, but does not have to be made before a relevant hedge is entered into. Also, a new election under subsection (6) cannot be made until 12 months after the end of an old election under subsection (6), unless the Commissioner notifies the person that the person may make a new election earlier.

Defined in this Act: Commissioner, eligible hedge, fair dividend rate hedge portion, income

**91 Section EM 5 amended (Fair dividend rate hedge portions)**

- (1) In the heading to section EM 5, replace “**portions**” with “**portions: hedge-by-hedge methods**”.
- (2) Replace section EM 5(1) with:

*Fair dividend rate hedge portions*

- (1) This section calculates the maximum fair dividend rate hedge portions for a person’s eligible hedges on a hedge-by-hedge basis under an election provided by section EM 4, or the minimum fair dividend rate hedge portions for hedges that are a hedge of a hedge.
- (3) Repeal section EM 5(2).
- (4) Replace section EM 5(3) with:

*Choice of methods*

- (3) A person may choose to use either the method in subsections (4) and (5), or the method in subsections (9) to (10D), to calculate the maximum or minimum, as the case may be, fair dividend rate hedge portions for all of the person’s eligible hedges when the relevant hedge is first entered into or acquired. They

may not choose to use, for example, the method in subsections (4) and (5) for some hedges and the method in subsections (9) to (10D) for other hedges.

- (5) In section EM 5(4), in the heading, replace “*formula*” with “*method*”.
- (6) In section EM 5(4), replace “maximum” with “maximum or minimum, as the case may be,”.
- (7) In section EM 5(4), replace “first entered into” with “first entered into or acquired”.
- (8) Replace section EM 5(5)(a) with:
- (a) **eligible currency assets** is the total market value of,—
- (i) a person’s assets described in section EM 1(1)(a) and (b) that are denominated in the same currency (the **calculation currency**) that the calculation hedge hedges; and
- (ii) if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by a multi-rate PIE, described in section EM 1(1)(a) and (b), and denominated in the calculation currency:
- (9) Repeal section EM 5(6) and (7).
- (10) Replace section EM 5(8), other than the heading, with:
- (8) If the amount calculated under subsection (4) or (9) is less than zero, then the maximum or minimum, as the case may be, fair dividend rate hedge portion for the relevant calculation hedge is zero.
- (11) Replace section EM 5(9) and (10) with:
- Second method*
- (9) The maximum or minimum, as the case may be, fair dividend rate hedge portion for a person’s eligible hedge (the **calculation hedge**) is the amount, expressed as a percentage, calculated using the following formula when the hedge is first entered into or acquired:
- $$\text{FDR gross amount} \times \text{apportioned current hedge amount} \div \text{calculation hedge amount.}$$
- Definition of items in formula*
- (10) In the formula in subsection (9), all items are expressed in New Zealand currency, and—
- (a) **FDR gross amount** is the amount given by subsection (10B):
- (b) **apportioned current hedge amount** is the amount given by subsection (10D):
- (c) **calculation hedge amount** is the amount of foreign currency that is hedged by the calculation hedge.

*FDR gross amount*

- (10B) For the purposes of subsection (10), the **FDR gross amount** is either—
- (a) zero if the formula in this subsection does not calculate, when the hedge is first entered into or acquired, an amount; or
  - (b) the lesser of 1 and the amount calculated using the following formula when the hedge is first entered into or acquired:
 
$$(1.05 \times \text{eligible currency assets} - \text{FDR hedges amount}) \div \text{apportioned current hedge amount.}$$

*Definition of items in FDR gross formula*

- (10C) In the formula in subsection (10B)(b), all items are expressed in New Zealand currency, and—
- (a) **eligible currency assets** is the total market value of a person’s assets described in section EM 1(1)(a) and (b) and, if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b):
  - (b) **FDR hedges amount** is the amount of foreign currency hedged by a person’s fair dividend rate hedge portions, but excluding the portion for the calculation hedge:
  - (c) **apportioned current hedge amount** is the amount given by subsection (10D).

*Apportioned current hedge amount*

- (10D) The **apportioned current hedge amount** for the purposes of subsections (10) and (10C) is 1 of the following amounts, expressed in New Zealand currency:
- (a) if the calculation hedge is not a hedge of a hedge, or is a hedge of a hedge and paragraph (b) does not apply, the amount is the lesser of the following amounts:
    - (i) the amount of foreign currency hedged by the calculation hedge:
    - (ii) the amount of foreign currency that is hedged by a person’s hedges including the calculation hedge *less* the amount of foreign currency that is hedged by a person’s FDR hedge portions excluding the calculation hedge *less* the total market value of a person’s non-eligible assets, treating a negative result as zero:
  - (b) the negative of the amount of foreign currency that is hedged by a person’s FDR hedge portions excluding the calculation hedge, if—
    - (i) the calculation hedge is a hedge of a hedge; and
    - (ii) the amount of foreign currency that is hedged by a person’s FDR hedge portions excluding the calculation hedge *plus* the calculation hedge *equals* less than zero.

- (12) In section EM 5, list of defined terms, insert “non-eligible assets”.

**92 New section EM 5B inserted (Fair dividend rate hedge portions: portfolio method)**

After section EM 5, insert:

**EM 5B Fair dividend rate hedge portions: portfolio method**

*Fair dividend rate hedge portions*

- (1) This section calculates the fair dividend rate hedge portions for a person's eligible hedges on a portfolio basis under an election provided by section EM 4.

*Lowest amount*

- (2) The fair dividend rate hedge portion is the lowest of the amounts described in subsections (4) and (6).

*Period calculation*

- (3) The fair dividend rate hedge portion is applied for a period of 1 month or less, as chosen by the person, for all of their eligible hedges. The fair dividend rate hedge portion is calculated before the start of the elected period, and the elected period is irrevocable, and is applied for all of their eligible hedges post-election, for the income year.

*First formula*

- (4) For the purposes of subsection (2), the amount is calculated using formula—  
$$1 - (\text{non-eligible assets} \div \text{portfolio hedges amount}).$$

*Definition of items in formula*

- (5) In the formula in subsection (4), all items are expressed in New Zealand currency, and—  
(a) **non-eligible assets** is the total market value of non-eligible assets:  
(b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person's hedges.

*Second formula*

- (6) For the purposes of subsection (2), the amount is calculated using the formula—  
$$(1.05 \times \text{eligible assets}) \div \text{portfolio hedges amount}.$$

*Definition of items in formula*

- (7) In the formula in subsection (6), all items are expressed in New Zealand currency, and—  
(a) **eligible assets** is the total market value of assets described in section EM 1(1)(a) and (b) that the person owns directly, and, if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b):

- (b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person's hedges.

Defined in this Act: eligible hedge, fair dividend rate hedge portion, hedge, non-eligible assets, qualifying hedge fund

**93 Section EM 6 amended (Income and expenditure for fair dividend rate hedge portions)**

- (1) In section EM 6(2), formula, replace “FDR portions’ value” with “(FDR portions’ value + period gain – period loss)”.
- (2) After section EM 6(3)(a), insert:
- (ab) **period gain** is the net gain multiplied by the FDR hedge portion for relevant eligible hedges that are entered into and settled within the preceding valuation period:
- (ac) **period loss** is the net loss multiplied by the FDR hedge portion for relevant eligible hedges that are entered into and settled within the preceding valuation period:

**94 Section EM 7 amended (Quarterly test of fair dividend rate hedge portions)**

- (1) Replace section EM 7(1), other than the heading, with:
- (1) A person must use the first formula, in subsection (2), on a day (the **calculation day**) they choose within a quarter of an income year, to calculate their quarterly FDR hedging ratio. The calculation day must be the same day for each quarter within the income year.
- (2) In section EM 7(4), replace “last day” with “calculation day”.
- (3) After section EM 7(5), insert:
- Relationship with subject matter*
- (5B) This section overrides section EM 5, but does not apply if and to the extent to which section EM 5B applies.
- (4) In section EM 7(6), replace “last day” with “calculation day”.

**95 Section EM 8 amended (Some definitions)**

In section EM 8, after the definition of **investor interest**, insert:

**non-eligible assets—**

- (a) means assets that are denominated in a foreign currency and not described in section EM 1(1)(a) and (b); but
- (b) does not include—
- (i) cash assets totalling less than 5% of the total market value of a person's assets described in section EM 1(1)(a) and (b), or, at the election of the person, foreign cash assets that relate directly to

assets described in section EM 1(1)(a) and (b) and to FDR hedge portions:

- (ii) eligible hedges:
- (iii) New Zealand securities listed on a recognised exchange and denominated in a foreign currency to the extent to which the securities are unhedged as to foreign currency

**qualifying hedge fund** means a person that is an investor in a multi-rate PIE, either directly or indirectly through 1 or more multi-rate PIEs, if and to the extent to which income of the multi-rate PIE from an asset described in section EM 1(1)(a) and (b) is attributed to the person

## 96 Section EW 5 amended (What is an excepted financial arrangement?)

- (1) After section EW 5(3), insert:

### *Cryptocurrency*

- (3BA) A cryptocurrency is an excepted financial arrangement if the cryptocurrency does not meet the requirements of subsection (3BAB).

### *Exception: cryptocurrency producing specified returns on purchase price*

- (3BAB) A cryptocurrency is not an excepted financial arrangement if a consequence of ownership of the cryptocurrency is that the owner receives or is entitled to receive, during the period of ownership, amounts that are determined—
- (a) by reference to the quantity or value of the cryptocurrency; and
  - (b) on a basis that is known by the owner in advance; and
  - (c) not by reference to the profits of a business activity.

- (2) After section EW 5(13), insert:

### *Option over cryptocurrency*

- (13B) An option to acquire or to dispose of cryptocurrency is an excepted financial arrangement.

## 97 Section EW 46C amended (Consideration when debt forgiven within economic group)

- (1) In the heading to section EW 46C, replace “**forgiven**” with “**remitted**”.
- (2) In section EW 46C(1), words before the paragraphs, replace “forgiven” with “remitted”.
- (3) Replace section EW 46C(1)(a) with:

- (a) the creditor is a member of the same wholly-owned group of companies as the debtor and—
  - (i) the debtor is a New Zealand resident company;
  - (ii) the debtor carries on a business in New Zealand through a fixed establishment in New Zealand and the creditor or an associated

person cannot deduct, under this Act or a taxation law of a country or territory outside New Zealand, an amount in relation to the remission against income:

- (4) In section EW 46C(2)(a), replace “forgiven” with “remitted”.
- (5) In section EW 46C(2)(ab), replace “forgiveness” with “remission”.
- (6) In section EW 46C(2)(b)(ii), replace “the amount that the trust forgives the debtor” with “the amount of the trust’s debt that is remitted for the debtor”.
- (7) In section EW 46C(2)(b)(ii), replace “the amount that the single creditor group forgives the debtor” with “the amount of the single creditor group’s debt that is remitted for the debtor”.
- (8) In section EW 46C(2)(b)(ii), replace “forgiven” with “remitted” in each place.
- (9) In section EW 46C(4), replace “the creditor forgives it” with “it is remitted”.
- (10) In section EW 46C(5), replace “the creditor forgives it” with “it is remitted”.
- (11) In section EW 46C(6), definition of **proportional debt ratio**, replace “forgiven” with “remitted” in each place.
- (12) Subsections (1), (2), (4), (5), (6), (7), (8), (9), (10), and (11) apply for a person for the 2008–09 and later income years, except for an income year before the 2015–16 income year for which the person takes a tax position in a return of income that is inconsistent with the amendments made by subsections (1), (2), (4), (5), (6), (7), (8), (9), (10), and (11).

**98 Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)**

- (1) In section EZ 23B(7)(d), delete “, grandparented structure,”.
- (2) In section EZ 23B(10)(b)(i), delete “or grandparented structure”.
- (3) In section EZ 23B(11B), words before the paragraphs, delete “or grandparented structures”.
- (4) In section EZ 23B, list of defined terms, delete “grandparented structure”.
- (5) Subsections (1), (2), (3), and (4) apply for the 2020–21 and later income years.

**99 Section EZ 23BB amended (Interest in property acquired after depreciable property affected by Canterbury earthquakes)**

- (1) In section EZ 23BB(11)(b)(i), delete “or grandparented structure”.
- (2) In section EZ 23BB, list of defined terms, delete “grandparented structure”.
- (3) Subsections (1) and (2) apply for the 2020–21 and later income years.

**100 Section EZ 23BC amended (Property acquired after depreciable property affected by Hurunui/Kaikōura earthquakes)**

- (1) In section EZ 23BC(8)(b), delete “, grandparented structure,”.
- (2) In section EZ 23BC(11)(b)(i), delete “or grandparented structure”.

- (3) In section EZ 23BC(11)(b)(iii), delete “or grandparented structures”.
- (4) In section EZ 23BC(11)(b)(iv), delete “or grandparented structures”.
- (5) In section EZ 23BC(11)(b)(vii), delete “, grandparented structure,”.
- (6) In section EZ 23BC, list of defined terms, delete “grandparented structure”.
- (7) Subsections (1), (2), (3), (4), (5), and (6) apply for the 2020–21 and later income years.

**101 New section EZ 23BD inserted (Loss on disposal of grandparented structure)**

- (1) After section EZ 23BC, insert:

**EZ 23BD Loss on disposal of grandparented structure**

- (1) Despite section EE 48(3), subsection (2) of that section applies if the item is a grandparented structure.
- (2) In this section, **grandparented structure** means, for a person, any item on the following list, if the person acquired the item, or entered into a binding contract for the purchase or construction of the item, on or before 30 July 2009:
  - (a) barns, including barns (drying):
  - (b) carparks (buildings):
  - (c) chemical works:
  - (d) fertiliser works:
  - (e) powder drying buildings:
  - (f) site huts.

Defined in this Act: grandparented structure

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

**102 Section EZ 73 amended (Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions)**

In section EZ 73, list of defined terms, delete “grandparented structure”.

**103 Section FB 3A amended (Residential land)**

In section FB 3A(3), replace “CB 6A(1) to (5) and CZ 39(2) to (6)” with “CB 6A, and CZ 39”.

**104 New cross-heading and sections FC 9B and FC 9C inserted**

After section FC 9, insert:

*Exceptions for residential land transferred to trustees of certain trusts or other entities*

**FC 9B Residential land: certain transferors**

For the purposes of calculating a person's net income in relation to the disposal of residential land for which they derive an amount of income under section CB 6A or CZ 39 (which relate to residential land), if the person is 1 of the following then they are treated as disposing of the relevant land for the greater of either its cost to them or the consideration they derive for the disposal:

- (a) a person transferring land to a trustee (the **recipient**), described in section CB 6AB(1) (Residential land transferred in relation to certain family trusts and other capacities), to which that subsection applies:
- (b) a trustee transferring land to an original settlor (also a **recipient**), described in section CB 6AB(2), to which that subsection applies:
- (c) a person in a different capacity (also a **recipient**), described in section CB 6AB(4), to which that subsection applies:
- (d) a person transferring land to a Māori trustee (also **recipient**), described in section CB 6AC(1) (Residential land transferred in relation to certain Māori family trusts), to which that subsection applies:
- (e) a Māori trustee transferring land to an original settlor (also a **recipient**), described in section CB 6AC(2), to which that subsection applies:
- (f) a transferor transferring land to a recipient, described in section CB 6AE (Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi), to which that section applies.

Defined in this Act: cost, dispose, income, net income, residential land

**FC 9C Residential land: certain recipients**

For the purposes of calculating a person's net income in relation to the disposal of residential land for which they derive an amount of income under section CB 6A or CZ 39 (which relate to residential land), if the person is a recipient of a transfer, as described in section FC 9B(a), (b), (c), (d), or (e), then they are treated as acquiring the relevant land for the greater of either its cost to the person (the **transferor**) that transferred it to them or the consideration they give the transferor for the land.

Defined in this Act: acquire, cost, dispose, income, net income, residential land

**FC 9D Residential land: certain recipients of Treaty of Waitangi land**

For the purposes of calculating a person's (**person A's**) net income in relation to the disposal of residential land for which person A derives an amount of income under section CB 6A or CZ 39 (which relate to residential land), person A is treated as acquiring the land for its market value at the time the land was transferred from the Crown, if person A is the recipient under CB 6AE (Certain

transfers of residential land included in settlement of claim under the Treaty of Waitangi).

Defined in this Act: acquire, cost, dispose, income, net income, residential land

**105 Section FH 11 amended (Residents, or non-residents with deducting branches, having expenditure funding overseas hybrid mismatches)**

- (1) Replace section FH 11(1) with:

*When this section applies*

- (1) This section applies for a person (the **funder**) and an income year when the funder is—
- (a) a New Zealand resident who makes a payment (the **original payment**) to a person in a country or territory outside New Zealand that does not have hybrid mismatch legislation and the original payment meets the requirements of subsection (1B); or
  - (b) a deducting branch in New Zealand of a non-resident, who is resident in a country or territory outside New Zealand that does not have legislation having the same effect as this subpart, and who makes a charge to the deducting branch that meets the requirements of subsection (1B).

*Requirements for denial of deduction for original payment or charge*

- (1B) An original payment or a charge by a funder meets the requirements of this subsection if—
- (a) the original payment or charge provides funds for a payment (the **funded payment**) from a person or other entity (the **payer**) in a country or territory outside New Zealand (the **payer jurisdiction**) to a person or other entity (the **payee**), in the same or another country or territory outside New Zealand (the **payee jurisdiction**); and
  - (b) the funds are provided to the payer directly, or indirectly through a series of further transactions (the **intermediate transaction chain**) that are each governed by the tax laws of countries or territories outside New Zealand; and
  - (c) for each transaction in an intermediate transaction chain, each country or territory with tax laws that govern the transaction does not have legislation having the same effect as this subpart; and
  - (d) a deduction for the original payment, or the charge, would be allowed for the funder in the absence of this section and sections FH 8 to FH 10; and
  - (e) the original payment, or the charge, is made under a structured arrangement giving rise to the hybrid mismatch referred to in paragraph (f) or the funder and the payer, when the original payment is incurred or the charge is made, are members of a control group; and
  - (f) the funded payment gives rise to a hybrid mismatch; and

- (g) the payee jurisdiction does not have hybrid mismatch legislation.
- (2) In section FH 11(2), replace “The” with “Subject to subsections (5) and (6), the”.
- (3) Replace section FH 11(4), other than the heading, with:
- (4) Under this subsection, the amount of the denial is the amount of the payment by the funder that can fairly and reasonably be treated as providing, directly or indirectly, funds for an amount of the funded payment that, if hybrid mismatch legislation were applied by the payer jurisdiction, would be disallowed as a deduction against income or equivalent tax relief.
- (4) Replace section FH 11(5) with:
- Tracing funding for funded payment, quantifying amount of deduction denied*
- (5) Whether a payment or charge by a funder provides funds for a funded payment under subsection (1B)(a) and, if so, the amount under subsection (4) that the funder is denied as a deduction, are determined consistently with the approaches described in chapter 8 of the hybrid mismatch report and chapter 5 of the branch mismatch report.
- (5) After section FH 11(5), insert:
- Deduction allowed in later income year*
- (6) A deduction (the **denied deduction**) that is for a payment or charge that provides funds for a funded payment, and is denied under subsection (2) in the income year in which the payment or charge is incurred, is allowed in a later income year to the extent to which—
- (a) the payer jurisdiction would allow a deduction in the later income year for the funded payment if hybrid mismatch legislation were applied by the payer jurisdiction; and
- (b) the denied deduction meets the requirements of section FH 12(8) to be carried forward to the later income year as a mismatch amount.
- (6) Subsections (1), (2), (4), and (5) apply for income years beginning on or after 1 July 2018.
- (7) Subsection (3) applies for a payment in an income year beginning on or after 1 January 2020.
- (8) Despite subsections (6) and (7), subsections (1), (2), (3), (4), and (5) do not apply to a person in relation to a tax position taken by the person—
- (a) for an income year beginning before the date on which this Act receives the Royal assent; and
- (b) relying on section FH 11 as it was before the amendments made by subsections (1), (2), (3), (4), and (5).

#### 106 Section FH 15 amended (Definitions)

- (1) In section FH 15(1), replace the definition of **hybrid mismatch** with:

**hybrid mismatch**, for a payment in a tax year by a payer in a country or territory (the **payer jurisdiction**) means an amount of a deduction for the payment that would be denied by the payer jurisdiction if the payer jurisdiction had legislation having an effect corresponding to that of subpart FH

- (2) In section FH 15(1), definition of **hybrid mismatch legislation**, paragraph (b), replace “a provision” with “this subpart or a provision”.
- (3) Subsections (1) and (2) apply for income years beginning on or after 1 July 2018. However, subsections (1) and (2) do not apply to a person in relation to a tax position taken by the person—
  - (a) for an income year beginning before the date on which this Act receives the Royal assent; and
  - (b) relying on the definitions of **hybrid mismatch** and **hybrid mismatch legislation** in section FH 15(1) as they were before the amendments made by subsections (1) and (2).

**107 Section FM 8 amended (Transactions between group companies: income)**

- (1) Replace section FM 8(3)(d) with:
  - (d) the amount of a dividend derived by a local authority.
- (2) Subsection (1) applies for the 2022–23 and later income years.

**108 Section FM 15 amended (Amortising property and revenue account property)**

- (1) After section FM 15(2), insert:

*Acquisition by company B*
- (2B) For the purposes of sections CB 6A and CZ 39 (which relate to residential land), in relation to property that is land, company B is treated as having the same bright-line acquisition date as company A for that land.
- (2) In section FM 15, list of defined terms, insert “bright-line acquisition date” and “land”.

**109 Section FO 2 amended (Amalgamation rules)**

In section FO 2(b), replace “CD 43(23) and (24)” with “CD 43(24) and (25)”.

**110 Section FO 21 amended (When amalgamating companies are parties to financial arrangements: economic groups)**

In section FO 21(1)(b), replace “forgiven” with “remitted”.

**111 Section GB 3 amended (Arrangements for carrying forward loss balances: companies’ ownership)**

In section GB 3(1)(c), replace “Continuity” with “Ownership continuity”.

**112 New cross-heading and sections GB 53B and GB 53C inserted**

After section GB 53, insert:

*Interest incurred in relation to certain land*

**GB 53B Interposed residential property percentage: increases or decreases in value**

*When this section applies*

- (1) This section applies when there is an increase or decrease in value that affects, or would affect the result of a calculation of a person's interposed residential property percentage, defined in section DH 6 (Interposed residential property percentage), and the increase or decrease is—
- (a) caused by an action or omission that has, or would have the purpose or effect of defeating the intent and application of subpart DH (Interest incurred in relation to certain land);
  - (b) produced by an arrangement that has a purpose or effect of defeating the intent and application of subpart DH.

*Effect of increase or decrease*

- (2) The effect of the increase or decrease in value on the calculation of a person's interposed residential property percentage is ignored.

Defined in this Act: arrangement, interposed residential property percentage

**GB 53C On-lending at lower rate**

*When this section applies*

- (1) This section applies when, under an arrangement, a person borrows money and on-lends it to an associated person at a lower rate than that at which the person borrowed it, if—
- (a) the associated person, or a person associated with the associated person, owns disallowed residential property; and
  - (b) the arrangement has a purpose or effect, not being a merely incidental purpose or effect, of defeating the intent and application of subpart DH (Interest incurred in relation to certain land).

*Lower rate used*

- (2) The amount of interest incurred by the person for the purposes of Part D is limited to and calculated using the lower rate. The higher rate is ignored.

Defined in this Act: arrangement, associated person, disallowed residential property, interest, money

**113 Section GC 3B amended (Disposals of emissions units)**

- (1) In section GC 3B(2)(c)(iii), replace “transferee.” with “transferee:”.
- (2) After section GC 3B(2)(c), insert:
- (d) the cancellation of the unit.

- (3) Subsections (1) and (2) apply for a person and an income year beginning on or after 1 January 2009, except for an income year for which the person chooses to rely on a tax position taken before the date on which this Act receives the Royal assent.

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

In section GC 18(4)(b)(ii), replace “the amount of the borrowing” with “the amount of the borrower’s cross-border related borrowing, including the borrowing.”

**115 Section HF 7 replaced (Taxable Maori authority distributions)**

Replace section HF 7 with:

**HF 7 Taxable Maori authority distributions**

A Maori authority distribution is a **taxable Maori authority distribution** if—

- (a) the source is income of the Maori authority that is—
  - (i) derived by the Maori authority in the 2004–05 income year or a later income year; and
  - (ii) not exempt income of the Maori authority; and
- (b) it is not a cash distribution made to a member in relation to a notional distribution for which the Maori authority has made an election under section OB 82 (When and how co-operative company makes election).

Defined in this Act: exempt income, income, income year, Maori authority, member, taxable Maori authority distribution

Compare: 2004 No 35 s HI 5(2), (3)

**116 Section HR 3 amended (Definitions for section HR 2: group investment funds)**

In section HR 3(6A)(f), replace “the Housing New Zealand Corporation” with “Kāinga Ora—Homes and Communities”.

**117 Section HR 9BA amended (Elections to treat debt funding special purpose vehicles as transparent)**

Replace section HR 9BA(1), other than the heading, with:

- (1) An originator makes an election referred to in section HR 9 by—
  - (a) after the formation of the debt funding special purpose vehicle and before the return of income referred to in paragraph (b), notifying the Commissioner that the originator chooses to have the liabilities and obligations referred to in section HR 9 that the debt funding special purpose vehicle would have in the absence of the election; or

- (b) in the originator’s first return of income filed after the first transfer of assets by the originator to the debt funding special purpose vehicle, returning income derived and expenditure incurred by the debt funding special purpose vehicle.

**118 Section IA 5 amended (Restrictions on companies’ loss balances carried forward: continuity of ownership)**

- (1) In section IA 5(4), replace “IB 3 or IP 3” with “IB 3, IP 3, or IP 3B”.
- (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.

**119 Section IB 3 amended (When tax loss components of companies carried forward despite ownership continuity breach)**

- (1) Replace section IB 3(3)(b) and (c) with:
- (b) the company has had another ownership continuity breach—
- (i) since the later of the beginning of the earlier income year and the beginning of the 2020–21 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 the tax loss component could not be carried forward to the 2020–21 tax year in the absence of this subpart.
- (2) In section IB 3(5)(a), replace “carried on by the company” with “that the company carried on immediately before the beginning of the business continuity period”.
- (3) In section IB 3(5)(b), after “technology”, insert “relating to a business activity that the company carried on immediately before the beginning of the business continuity period”.
- (4) Replace section IB 3(5)(c) with:
- (c) caused by an increase in the scale of a business activity that the company carried on immediately before the beginning of the business continuity period, including as a result of the company entering a new market for a product or service that it produced or provided at that time:
- (5) After section IB 3(5), insert:
- Exclusion: mining net losses*
- (5B) This section does not apply to an amount referred to in section IA 7(7) (Restrictions relating to ring-fenced tax losses) that is treated by subsection (1B) of that section as if it were a tax loss component.
- (6) In section IB 3, list of defined terms, insert “amount”.

- (7) Subsections (1), (2), (3), (4), and (5) apply 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.

**120 Section IB 5 amended (When group companies treated as single company)**

- (1) In section IB 5, replace “Companies” with “New Zealand resident companies”.
- (2) In section IB 5, list of defined terms, insert “New Zealand resident”.
- (3) 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.

**121 Section ID 5 amended (Pre-consolidation losses on exit: part-year rule)**

- (1) In section ID 5(2), replace “section IP 3(3) (Continuity breach: tax loss components of companies carried forward)” with “section IP 3(3) or IP 3B(3) (which relate to the carrying forward of tax losses for companies)”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

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

- (1) In section IP 1(1),—
- (a) words before the paragraphs, replace “either or both” with “1 or more of”;
- (b) paragraph (b), replace “(a **continuity breach**).” with “(an **ownership continuity breach**):”;
- (c) after paragraph (b), insert:
- (c) when a company to which section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) applies breaches, during an income year, the requirement of section IB 3(2)(b) or (c) for the carrying forward of a tax loss component to the tax year that corresponds to the income year (a **business continuity breach**).
- (2) In the heading to section IP 1(2), replace “*IA, IC,*” with “*IA, IB, IC,*”.
- (3) In section IP 1(2), replace “*IA, IC,*” with “*IA, IB, IC,*”.
- (4) In section IP 1, list of defined terms, insert “company”, “income year”, and “tax loss component”.
- (5) Subsections (1), (2), and (3) apply for the 2020–21 and later income years.

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

In the heading to section IP 3, replace “**Continuity**” with “**Ownership continuity**”.

**124 New section IP 3B inserted (Business continuity breach: tax loss components of companies carried forward)**

- (1) After section IP 3, insert:

**IP 3B Business continuity breach: tax loss components of companies carried forward***When this section applies*

- (1) This section applies for the purposes of section IA 4 (Using loss balances carried forward to tax year) if a tax loss component of a company would have been carried forward under section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) to a tax year but for a breach or breaches, during the income year that corresponds to the tax year, of either or both of the requirements of section IB 3(2)(b) and (c).

*Tax loss components for earlier income years*

- (2) Despite the breach or breaches, the tax loss component is carried forward to the tax year to the extent to which—
- 
- (a) the requirements of section IB 3(2)(b) and (c) would be met if the relevant period described in section IB 4 (Business continuity period) included only part of the income year of the company that corresponds to the tax year; and
- 
- (b) the company has net income for part of the corresponding income year; and
- 
- (c) the company provides the Commissioner with adequate financial statements under section IP 6 calculating the amount of the company's net income for the relevant part of the corresponding income year.

*Limit on tax loss components carried forward*

- (3) The total tax loss components carried forward under subsection (2) must be no more than the amount calculated under subsection (2)(b) and (c), although the amount may be increased if section IP 5 applies.

Defined in this Act: amount, Commissioner, company, corresponding income year, income year, net income, tax loss component, tax year

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

**125 Section IP 4 amended (Breach in income year in which tax loss component arises)**

- (1) In section IP 4(2)(b), after “company A”, insert “, or continuity of company A’s business activities,”.
- 
- (2) Subsection (1) applies for the 2020–21 and later income years.

**126 Section IP 5 amended (Breach in tax year in which loss balance is grouped)**

- (1) In section IP 5(2)(b), after “company A”, insert “, or continuity of company A’s business activities,”.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**127 Section IP 6 amended (Financial statements required)**

- (1) After section IP 6(1), insert:

*Financial statements required from company: section IP 3B*

- (1B) For the purposes of this subpart, a company must provide the Commissioner with adequate financial statements under section IP 3B(2)(c) relating to the continuity period.
- (2) Subsection (1) applies for the 2020–21 and later income years.

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

In section IZ 8(12), replace “Continuity” with “Ownership continuity”.

**129 Section LB 1B amended (Treatment of tax credits of certain companies with shareholders who are employees)**

In section LB 1B(3), replace “ICA refund of income tax” with “ICA refund of tax or transfer from account”.

**130 Section LT 1 amended (Tax credits for petroleum miners)**

- (1) In section LT 1(1)(a)(ii), replace “); and” with “):”.
- (2) After section LT 1(1)(a)(ii), insert:
  - (iii) incurred expenditure in plugging and abandoning an exploratory well for which they are entitled to a deduction; and
- (3) In section LT 1(2), replace “for an amount” with “less than or equal to the amount (the **current loss credit**)”.
- (4) In section LT 1(3)(a), replace “subsection (1)(a)(i) and (ii)” with “subsection (1)(a)(i) to (iii)”.
- (5) Replace section LT 1(4) with:

*Maximum amounts*

- (4) The amount of the credit must not be more than the lesser of—
  - (a) the amount of total tax given by subsection (4B); and
  - (b) the amount calculated using the formula—
$$\text{current loss credit} - \text{exploration abandonment excess.}$$

*Total tax*

- (4B) In subsection (4)(a), total tax is the amount of income tax paid by,—
- (a) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated:
  - (b) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated.

*Current loss credit*

- (4C) In the formula in subsection (4)(b), the item **current loss credit** is the amount given by subsection (2).

*Exploration abandonment excess*

- (4D) In the formula in subsection (4)(b), the item **exploration abandonment excess** is the greater of zero and,—
- (a) if the amount of the net loss described in subsection (1)(c) is less than or equal to the total amount of the deductions described in subsection (1)(a)(i) and (ii), zero; or
  - (b) if the amount of the net loss described in subsection (1)(c) is equal to or exceeds the total amount of the deductions described in subsection (1)(a)(i) to (iii) and the amount described in subsection (1)(a)(iii) is greater than zero, the amount calculated by multiplying the amount referred to in subsection (1)(a)(iii) for the income year by the tax rate referred to in subsection (3)(b) and subtracting the amount of income tax (the **post-abandonment tax**) paid by,—
    - (i) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for tax years beginning after drilling for the purposes of exploration ceased in the exploratory well, calculated on a year-by-year basis and aggregated:
    - (ii) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for tax years beginning after drilling for the purposes of exploration ceased in the exploratory well, calculated on a year-by-year basis and aggregated; or
  - (c) if neither of paragraphs (a) and (b) applies, the amount calculated using the formula—
 
$$(\text{net loss} - \text{decommissioning deductions}) \times \text{tax rate} - \text{post-abandonment tax.}$$

*Definition of items in formula*

- (4E) In the formula in subsection (4D)(c),—

- (a) **net loss** is the amount of the net loss described in subsection (1)(c):
  - (b) **decommissioning deductions** is the total amount of the deductions described in subsection (1)(a)(i) and (ii):
  - (c) **tax rate** is the tax rate referred to in subsection (3)(b):
  - (d) **post-abandonment tax** is the amount of income tax described in subsection (4D)(b).
- (6) In section LT 1(5), replace “subsection (4)(b)” with “subsections (4B) and (4D)”.
- (7) In section LT 1(6), replace “subsection (4)” with “subsections (4B) and (4D)”.
- (8) In section LT 1(7),—
- (a) replace “subsections (4)(b)” with “subsections (4B), (4D),”:
  - (b) replace “the amount referred to in subsection (4)(a)” with “the current loss credit”.

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

- (1) In section LY 5(1)(a), replace “; but” with “; and”.
- (2) After section LY 5(1)(a), insert:
- (ab) includes expenditure or loss, described in schedule 21B, part A, to the extent to which the expenditure or loss is incurred on a supporting research and development activity conducted—
    - (i) in the income year immediately before the income year that this subpart first applies for the core research and development activity to which the supporting activity relates:
    - (ii) in the income year immediately after the income year that this subpart last applies for the core research and development activity to which the supporting activity relates; but
- (3) Subsections (1) and (2) apply for the 2020–21 and later income years.

**132 Section LY 9 amended (Orders in Council)**

In section LY 9, list of defined terms, replace “research and development tax credits” with “research and development tax credit”.

**133 Section LY 10 amended (Evaluation)**

In section LY 10, list of defined terms,—

- (a) replace “research and development activities” with “research and development activity”:
- (b) replace “research and development tax credits” with “research and development tax credit”.

**134 Section MD 9 amended (Fifth requirement: earner)**

- (1) In section MD 9(1)(a), replace “a full-time earner” with “an earner”.
- (2) Replace section MD 9(4) with:

*Compensation payments for incapacities suffered between 1 January 2006 and 31 March 2006*

- (4) A person meets the fifth requirement if—
  - (a) they received a child tax credit for an entitlement period ending on 31 March 2006; and
  - (b) between 1 January 2006 and 31 March 2006 (both dates inclusive), they or their spouse, civil union partner, or de facto partner suffered an incapacity due to personal injury by accident within the meaning of section 26 of the Accident Compensation Act 2001; and
  - (c) weekly compensation within the meaning of section 6 of the Accident Compensation Act 2001 is being or will be paid for the incapacity; and
  - (d) at the time of the incapacity, the person or their spouse, civil union partner, or de facto partner—
    - (i) was deriving, as a full-time earner, income as set out in subsections (2) and (3), as those subsections were immediately before the amendment made by section 360(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009; and
    - (ii) would have been eligible for the tax credit calculated using the formula in section MD 10, as that section was immediately before the amendments made by section 127(1) and (3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012, had this Act come into force before the date of the incapacity.
- (3) In section MD 9(5), replace “are normally a full-time earner as described in subsection (1)(a)” with “normally derive income as set out in subsections (2) and (3) as a full-time earner”.
- (4) In section MD 9, list of defined terms, insert “full-time earner”.

**135 Section MX 3 amended (Wage intensity criteria)**

- (1) In section MX 3(3)(a)(iv), replace “section RD 3(3) or (4) (PAYE income payments)” with “section RD 3B(3) or RD 3C(4) (which relate to income derived by shareholders who are employees)”.
- (2) In section MX 3(3)(b)(iv), replace “section RD 3(3) or (4)” with “section RD 3B(3) or RD 3C(4)”.

**136 Section OA 9 amended (General treatment of credits and debits on resident’s restricted amalgamation)**

In section OA 9(3), words before the paragraphs, replace “section OA 8(7)(b) and (8)” with “section OA 8(7) and (8)”.

**137 Section OB 4 amended (ICA payment of tax)**

(1) Replace the heading to section OB 4 with “**ICA payment of tax or transfer to account**”.

(2) Replace section OB 4(1), other than the heading, with:

(1) An ICA company has an imputation credit for an amount of income tax or provisional tax paid or an amount of excess tax transferred under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies). Subsection (3) overrides this subsection.

(3) In section OB 4(2), replace “(payment of tax)” with “(provisional tax or income tax paid), row 2B (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 2C (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), and row 2D (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”.

(4) In section OB 4(4)(a), replace “paragraph (b)” with “paragraph (c)”.

(5) Replace section OB 4(4)(b) with:

(c) for an amount of excess tax transferred in a tax year (the **transfer year**) from another period or tax type of the ICA company on a date under section 173L of the Tax Administration Act 1994, or from another ICA company on a date under section 173M of that Act or section RC 32(5)(b),—

(i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the transfer year; or

(ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the ICA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act or section RC 32(5)(b), and the ICA to which the transfer is made is in credit; or

(iii) the date referred to in the opening words of this paragraph, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

**138 Section OB 32 amended (ICA refund of income tax)**

- (1) Replace the heading to section OB 32 with “**ICA refund of tax or transfer from account**”.
- (2) In section OB 32(1), after “paid to the company”, insert “or the amount of a transfer of excess income tax or excess provisional tax under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies)”.
- (3) In section OB 32(3)(a), after “(refund of income tax)”, insert “, row 4B (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 4C (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), or row 4D (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”.
- (4) In section OB 32(4), after “debit that arises”, insert “from a refund of income tax”.
- (5) Replace section OB 32(6), other than the heading, with:
- (6) The debit date for—
  - (a) a refund of income tax is the day the refund is made; or
  - (b) an amount of excess tax transferred in a tax year (the **transfer year**) to another period or tax type of the ICA company on a date under section 173L of the Tax Administration Act 1994, or to another ICA company on a date under section 173M of that Act or section RC 32(5)(b), is—
    - (i) despite section 173L(2)(a) to (bb) of the Tax Administration Act 1994, the date of the request for the transfer if that date is in the transfer year; or
    - (ii) despite section 173L(2)(a) to (bb) of the Tax Administration Act 1994, the date of the request for the transfer if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the ICA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act, and the ICA to which the transfer is made is in credit; or
    - (iii) the date referred to in the opening words of this paragraph, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

**139 Table O1 amended (Table O1: imputation credits)**

In table O1, replace row 2 with:

2	Provisional tax or income tax paid	day of payment	section OB 4(4)(a)
---	------------------------------------	----------------	-----------------------

2B	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 4(4)(c)(i)
2C	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 4(4)(c)(ii)
2D	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of transfer under section 173L, 173M, or RC 32(5)(b)	section OB 4(4)(c)(iii)

#### 140 Table O2 amended (Table O2: imputation debits)

In table O2, replace row 4 with:

4	Refund of income tax	day of refund	section OB 32(6)(a)
4B	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 32(6)(b)(i)
4C	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 32(6)(b)(ii)
4D	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of transfer under section 173L, 173M, or RC 32(5)(b)	section OB 32(6)(b)(iii)

#### 141 Section OK 2 amended (MACA payment of tax)

- (1) Replace the heading to section OK 2 with “**MACA payment of tax or transfer to account**”.
- (2) In section OK 2(1), after “or provisional tax”, insert “, or for an amount of excess tax transferred under section 173L of the Tax Administration Act 1994”.
- (3) In section OK 2(2), replace “(payment of tax)” with “(provisional tax and income tax paid), row 2B (transfer under section 173L of the Tax Administration Act 1994), row 2C (transfer under section 173L of the Tax Administration Act 1994), and row 2D (transfer under section 173L of the Tax Administration Act 1994)”.

- (4) Replace section OK 2(4), other than the heading, with:

- (4) The credit date is—
  - (a) for a payment of income tax or provisional tax, the day on which the tax is paid; or
  - (b) for an amount of excess tax transferred in a tax year (the **transfer year**) from another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994,—
    - (i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the transfer year; or
    - (ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the tax year following the

transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

- (iii) the date of the transfer under section 173L of that Act, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

#### **142 Section OK 3 amended (MACA payment of tax to other Maori authorities)**

- (1) Replace the heading to section OK 3 with “**MACA transfer of excess tax from other Maori authorities**”.

- (2) Replace section OK 3(1), other than the heading, with:

- (1) A Maori authority has a Maori authority credit for a transfer of excess tax from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies).

- (3) In section OK 3(2), replace “(payment of tax to another Maori authority)” with “(transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 3B (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), and row 3C (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”.

- (4) Replace section OK 3(3), other than the heading, with:

- (4) The credit date for a transfer of excess tax in a tax year (the **transfer year**) from another Maori authority under section 173M of the Tax Administration Act 1994 is—

- (a) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if—

- (i) the date of that request is in the transfer year; or
- (ii) the date of that request is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

- (b) the date of the transfer under section 173M of that Act or section RC 32(5)(b), if the requirements of paragraph (a) are not met.

#### **143 Section OK 11 amended (MACA allocation of provisional tax)**

- (1) Replace the heading to section OK 11 with “**MACA transfer of excess tax to other Maori authorities**”.

- (2) Replace section OK 11(1), other than the heading, with:
  - (1) A Maori authority has a Maori authority debit for a transfer of excess tax to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies).
  - (3) In section OK 11(2), replace “(allocation of provisional tax)” with “(transfer to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 3B (transfer to another Maori authority under section 173M of the Tax Administration Act 1994) or section RC 32(5)(b), and row 3C (transfer to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”.
- (4) Replace section OK 11(3), other than the heading, with:
  - (3) The debit date for a transfer of excess tax in a tax year (the **transfer year**) to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) is—
    - (a) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the transfer year; or
    - (b) despite section 173L(2)(a) to (bb) of that Act, the day on which the request for the transfer is made, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or
    - (c) the day of the transfer under section 173M of that Act or section RC 32(5)(b), if the requirements of neither paragraph (a) nor paragraph (b) are met.

#### **144 Section OK 12 amended (MACA refund of income tax)**

- (1) Replace the heading to section OK 12 with “**MACA refund of income tax or transfer of excess tax to period or tax type**”.
- (2) Replace section OK 12(1), other than the heading, with:
  - (1) A Maori authority has a Maori authority debit for the amount of a refund of income tax paid to the Maori authority or for a transfer of excess tax to another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994.
  - (3) In section OK 12(3), after “(refund of income tax)”, insert “, row 4B (transfer from MACA under section 173L of the Tax Administration Act 1994), row 4C (transfer from MACA under section 173L of the Tax Administration Act 1994), and row 4D (transfer from MACA under section 173L of the Tax Administration Act 1994)”.
- (4) Replace section OK 12(6), other than the heading, with:

- (6) The debit date for—
- (a) a refund of income tax is the day the refund is made; or
  - (b) an amount of excess tax transferred in a tax year (the **transfer year**) to another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994, is—
    - (i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the transfer year; or
    - (ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act and section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or
    - (iii) the date of the transfer under section 173L of that Act, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

#### 145 Table O17 amended (Table O17: Maori authority credits)

- (1) In table O17, replace row 2 with:

2	Provisional tax and income tax paid	day of payment	section OK 2(4)(a)
2B	Transfer to MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 2(4)(b)(i)
2C	Transfer to MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 2(4)(b)(ii)
2D	Transfer to MACA under section 173L of the Tax Administration Act 1994	date under section 173L of transfer	section OK 2(4)(b)(iii)

- (2) In table O17, replace row 3 with:

3	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 3(4)(a)(i)
3B	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 3(4)(a)(ii)
3C	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date under section 173M or RC 32(5)(b) of transfer	section OK 3(4)(b)

#### 146 Table O18 amended (Table O18: Maori authority debits)

- (1) In table O18, replace row 3 with:

3	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 11(3)(a)
---	---	------------------------------	---------------------

3B	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 11(3)(b)
3C	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date under section 173M or RC 32(5)(b) of transfer	section OK 11(3)(c)

(2) In table O18, replace row 4 with:

4	Refund of income tax	day of refund	section OK 12(6)(a)
4B	Transfer from MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 12(6)(b)(i)
4C	Transfer from MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 12(6)(b)(ii)
4D	Transfer from MACA under section 173L of the Tax Administration Act 1994	date under section 173L of transfer	section OK 12(6)(b)(iii)

**147 Section OP 12 amended (Consolidated ICA dividend derived with imputation credit)**

- (1) In section OP 12(1), after “company”, insert “that is not a local authority”.
- (2) In section OP 12, list of defined terms, insert “local authority”.
- (3) Subsection (1) applies for the 2022–23 and later income years.

**148 Section OP 30 amended (Consolidated ICA refund of income tax)**

- (1) In section OP 30(2),—
  - (a) paragraph (b), replace “the debit.” with “the debit; or”:
  - (b) after paragraph (b), insert:
  - (c) a refund of income tax or provisional tax paid to a local authority.
- (2) In section OP 30, list of defined terms, insert “local authority”.
- (3) Subsection (1) applies for the 2022–23 and later income years.

**149 Section OP 31 amended (Consolidated ICA amount applied to pay other taxes)**

- (1) Replace section OP 31(1), other than the heading, with:
  - (1) A consolidated imputation group has an imputation debit for—
    - (a) an amount of overpaid income tax applied to pay an amount due under the Inland Revenue Acts:
    - (b) an increased amount of tax as described in section RP 17B(3) (Tax pooling accounts and their use) applied to pay an amount due under the Inland Revenue Acts other than income tax.
- (2) Subsection (1) applies for the 2008–09 and later income years. However subsection (1) does not apply if a person has taken a tax position ignoring this section before the start of the 2020–21 income year.

**150 Section RC 35B amended (Treatment of overpaid provisional tax instalments calculated using AIM method)**

In section RC 35B(2)(b), replace “ICA refund of income tax” with “ICA refund of tax or transfer from account”.

**151 Section RC 38 amended (Crediting income tax with early-payment discount)**

- (1) In section RC 38(4)(a), replace “6.7%” with “the rate that is 2% greater than the Commissioner’s paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994”.
- (2) Subsection (1) applies to the 2022–23 and later income years.

**152 Section RC 40 amended (Some definitions)**

- (1) In section RC 40, definition of **small-business person**, paragraph (a), after “partnership”, insert “or as the owner of a look-through company”.
- (2) Subsection (1) applies to the 2019–20 and later income years.

**153 Section RD 5 amended (Salary or wages)**

Replace section RD 5(1)(c)(iv) with:

- (iv) an amount of income described in section RD 3B(3):
- (ivb) an amount of income described in section RD 3C(4):

**154 Section RD 45 replaced (Unclassified benefits)**

- (1) Replace section RD 45 with:

**RD 45 Unclassified benefits***Liability limited*

- (1) An employer is liable to pay FBT on an unclassified benefit only within the limits described in this section.

*Quarterly payment*

- (2) When FBT is paid quarterly, an employer is liable for FBT on an unclassified benefit provided to an employee in a quarter only if—
  - (a) the total taxable value of all unclassified benefits provided in the quarter to the employee by the employer, or by persons associated, at any time in the quarter, with the employer, is more than \$300; or
  - (b) the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the last 4 quarters including the current quarter, whether accounted for on a quarterly or an income year basis, is more than \$22,500.

*Yearly payment*

- (3) When FBT is paid on either an annual basis or an income year basis, except when subsection (5) applies, an employer is liable for FBT on unclassified benefits provided to an employee in the tax year or income year only if—
- (a) the total taxable value of all unclassified benefits provided in the tax year or income year to the employee by the employer, or by persons associated, at any time in the tax year or income year, with the employer, is more than \$1,200; or
  - (b) the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the tax year or income year is more than \$22,500.

*Categories*

- (4) The categories, for an employer, are—
- (a) unclassified benefits provided by the employer to their employees:
  - (b) unclassified benefits provided by persons associated, at any time in the relevant period, with the employer to employees of the employer:
  - (c) unclassified benefits provided by the employer to employees of persons associated, at any time in the relevant period, with the employer:
  - (d) if the employer is a company, unclassified benefits provided by other companies that are part of the same group of companies as the employer, at any time in the relevant period, to employees of those other companies.

*Period longer or shorter than income year*

- (5) When an employer accounts for FBT on an income year basis, and the period for which they have accounted under section RD 60 differs from an income year for the reasons described in subsection (6), an employer is liable for FBT on unclassified benefits provided in the period only if—
- (a) the total taxable value of all unclassified benefits provided in the period to an employee by the employer, or by persons associated, at any time in the quarter, with the employer, is more than the figure that is the same fraction or multiple of \$1,200 as the number of days in the period is a fraction or multiple of 365; or
  - (b) the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the period is more than the figure that is the same fraction or multiple of \$22,500 as the number of days in the period is a fraction or multiple of 365.

*Reasons for difference*

- (6) In subsection (5), the income year for which the employer has accounted may be longer or shorter than the normal income year because the employer has either—

- (a) started or ceased business during that income year; or
- (b) chosen, with the agreement of the Commissioner, to file a return under this subpart for the income year ending with the date of the annual balance of their accounts.

Defined in this Act: associated person, balance date, business, Commissioner, company, employee, employer, FBT, group of companies, income year, pay, quarter, return of income, tax year, unclassified benefit

- (2) Subsection (1) applies for the 2022–23 and later income years.

### 155 Section RD 50 amended (Employer’s liability for attributed benefits)

- (1) Replace section RD 50(5) with:

#### *Further options*

- (5) Instead of calculating FBT under subsections (2) and (4), an employer may choose to—
  - (a) pay FBT, for each employee to whom they are required to attribute the value of a fringe benefit under sections RD 47 and RD 49, at the rate of 63.93% on the taxable value of the fringe benefits attributed to the employee; or
  - (b) apply subsection (6).

#### *Requirements for employers who make election referred to in subsection (5)(b)*

- (6) An employer who makes an election under subsection (5) to apply this subsection must—
  - (a) pay FBT at the rate of 49.25% on the taxable value of the fringe benefits attributed to the employee, for each employee to whom all of the following apply:
    - (i) the employee is an employee to whom the employer is required to attribute the value of a fringe benefit under sections RD 47 and RD 49; and
    - (ii) the taxable value of all fringe benefits for the employee, as determined under section RD 51, is \$13,400 or less; and
    - (iii) the cash pay of the employee, as determined under that section, is \$160,000 or less; and
  - (b) for each other employee to whom the employer is required to attribute the value of a fringe benefit under sections RD 47 and RD 49,—
    - (i) pay FBT at the rate of 63.93% on the taxable value of the fringe benefits attributed to the employee, if subparagraph (ii) does not apply; or
    - (ii) pay FBT at the rate of 49.25% on the taxable value of the fringe benefits attributed to the employee, if the employee’s all-inclusive

pay, calculated using the formula in section RD 51(2), is less than \$129,681 and the employer chooses 49.25%.

- (2) Subsection (1) applies for the 2021–22 and later income years.

**156 Section RD 60 amended (Close company option)**

- (1) In section RD 60(3)(b), replace “the total pay of each employee” with “their FBT liability”.
- (2) Subsection (1) applies for the 2021–22 and later income years.

**157 Section RD 61 amended (Small business option)**

In section RD 61(3)(b), replace “the total pay of each employee” with “their FBT liability”.

**158 Section RD 63 amended (When employer stops employing staff)**

In section RD 63(3), words before the paragraphs, replace “section RD 50(2) or RD 53(3)” with “sections RD 50 and RD 53”.

**159 Section RD 67 replaced (Calculating amounts of tax for employer’s superannuation cash contributions)**

Replace section RD 67 with:

**RD 67 Calculating amounts of tax for employer’s superannuation cash contributions**

The amount of tax for an employer’s superannuation cash contribution is—

- (a) the amount determined under schedule 1, part D, clause 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits), unless paragraph (b) or (c) applies; or
- (b) 33% of the employer’s superannuation cash contribution, if the contribution is made by a person for the benefit of 1 or more of their past employees and paragraph (c) does not apply; or
- (c) 39% of the employer’s superannuation cash contribution, if an employer chooses 39% and the contribution is to a defined benefit fund.

Defined in this Act: amount, amount of tax, defined benefit fund, employer, employer’s superannuation cash contribution

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

- (1) In section RE 2(5)(a)(i), replace “either of sections CW 9 and CW 10” with “section CW 9, CW 10, or CW 10B”.
- (2) In section RE 2(5)(a)(ii), replace “resident:” with “resident); or”.
- (3) After section RE 2(5)(a)(ii), insert:

(iib) under section CW 39 (Local authorities):

(4) In section RE 2(5)(g), delete “, other than a dividend referred to in section CW 10(3)”.

(5) Subsections (1), (2), (3), and (4) apply for the 2022–23 and later income years.

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

(1) Replace section RE 10C(7)(a)(ii) with:

(ii) a custodial institution that is not resident in New Zealand; and

(2) After section RE 10C(7), insert:

*When branches located in New Zealand*

(7B) For the purposes of subsection (7)(a)(ii), if the non-resident custodial institution has a branch located in New Zealand that receives a payment of investment income, the branch is treated as the person who must withhold the amount of tax for the payment under subsection (3).

(3) Subsections (1) and (2) apply for the 2020–21 and later income years.

**162 Section RE 21 amended (Basis of payment of RWT)**

In section RE 21(3), replace “they must pay” with “they may pay”.

**163 Section RF 12 amended (Interest paid by approved issuers or transitional residents)**

(1) In section RF 12(1)(a)(ii), after “a trust”, insert “(a security trust)”.

(2) Replace section RF 12(1)(a)(iv) with:

(iv) if the interest relates to related-party debt, is derived at a time when the person is not associated with the approved issuer other than as a beneficiary of a security trust, and the funding provided by the lender under the related-party debt does not meet the requirements in section RF 12H(1)(a)(ii), and the lender does not meet the requirements in section RF 12H(1)(a)(iii):

**164 Section RM 1 amended (What this subpart does)**

(1) Repeal section RM 1(b).

(2) In section RM 1, list of defined terms, delete “company” and “foreign dividend”.

**165 Section RM 2 amended (Refunds for overpaid tax)**

(1) After section RM 2(1), insert:

*Provision of ancillary tax return treated as assessment*

(1BA) For the purposes of this section, the provision by a person of a return for an amount of an ancillary tax for a period is treated as the making of an assessment of the amount of the ancillary tax by the person.

- (2) In section RM 2, list of defined terms, insert “amount” and “ancillary tax”.
- (3) Subsection (1) applies in relation to a return for an amount of an ancillary tax for a period regardless of whether the return was or is provided before, on, or after the date on which this Act receives the Royal assent.

**166 Section RM 4 amended (Overpayment on amended assessment)**

- (1) After section RM 4(1), insert:

*Provision of ancillary tax return treated as assessment*

- (1B) For the purposes of this section, the provision by a person of a return for an amount of an ancillary tax for a period is treated as the making of an assessment of the amount of the ancillary tax by the person.
- (2) In section RM 4, list of defined terms, insert “ancillary tax”.
- (3) Subsection (1) applies in relation to a return for an amount of an ancillary tax for a period regardless of whether the return was or is provided before, on, or after the date on which this Act receives the Royal assent.

**167 Section RM 27 amended (Application when no credits arise)**

In section RM 27, replace “MACA payment of tax” with “MACA payment of tax or transfer to account”.

**168 Section RP 17 amended (Tax pooling intermediaries)**

- (1) Replace section RP 17(1), other than the heading, with:

- (1) A person (**person A**) may ask a person who maintains a tax pooling account to act as a tax pooling intermediary between person A and the Commissioner in using funds in the tax pooling account to satisfy a liability of person A to pay an amount referred to in section RP 17B(2).

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

Section 168(2): amended (with effect on 30 March 2022), on 31 March 2023, by section 219 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

**169 Section RP 17B amended (Tax pooling accounts and their use)**

- (1) After section RP 17B(2)(e), insert:

(f) a new liability described in subsection (12).

- (2) Replace section RP 17B(4)(a) and (b) with:

- (a) on a day that—
  - (i) is, or is after, the first day of the person’s income year corresponding to the tax year; and
  - (ii) is, or is before, the day that is 75 days after the person’s terminal tax date for the tax year, unless paragraph (b) or (c) applies:
- (b) on a day that—

- (i) is, or is after, the first day of the person’s income year corresponding to the tax year; and
  - (ii) is, or is before, the day that is 76 days after the person’s terminal tax date for the tax year, if the person’s balance date falls at the end of October, November, or December, and the terminal tax date falls in a tax year that includes a 29 February:
- (3) Repeal section RP 17B(9).
  - (4) Repeal section RP 17B(10).
  - (5) Repeal section RP 17B(11).
  - (6) After section RP 17B(8), insert:
 

*When funds may be used to meet new liability for tax or interest*
- (12) Subsection (13) applies when—
    - (a) a person is liable for an increased amount of a tax in a category referred to in subsection (14), or of interest under Part 7 of the Tax Administration Act 1994 (the **Part 7 interest**) on an increase in the amount of such a tax; and
    - (b) the liability referred to in paragraph (a) (the **new liability**) does not relate to a liability of the person that arose from a return by the person, or an assessment of the person, made before the person becomes aware of the new liability; and
    - (c) the person makes a voluntary disclosure of the new liability; and
    - (d) the person notifies the Commissioner of the details of the new liability and the notification results in an assessment of the new liability or in an obligation to pay the new liability; and
    - (e) the person makes the voluntary disclosure referred to in paragraph (c)—
      - (i) within a reasonable time after the earliest time that the person or the person’s agent is aware of the person’s new liability; and
      - (ii) before the date of the return referred to in paragraph (d); and
      - (iii) before the person is notified, within the terms of section 141G(4) of the Tax Administration Act 1994, of a pending tax audit or investigation or that a tax audit or investigation has started.

*Commissioner’s discretion to allow use of funds to meet new liability*
  - (13) On application by the person, the Commissioner may notify the person that the person may use funds in a tax pooling account to meet the new liability, if the Commissioner is satisfied that the new liability did not arise as a result of a choice by the person not to comply with the person’s obligations under the Inland Revenue Acts or as a result of a failure by the person to take reasonable care to comply with those obligations.

*Categories of tax that may be included in new liability*

- (14) The categories of tax that may be included in a new liability for the purposes of subsection (12) are—
- (a) ESCT:
  - (b) FBT:
  - (c) further income tax:
  - (d) GST:
  - (e) imputation penalty tax:
  - (f) income tax:
  - (g) NRWT:
  - (h) PAYE:
  - (i) RSCT:
  - (j) RWT.

**170 Section RP 19 amended (Transfers from tax pooling accounts)**

- (1) Replace section RP 19(3)(a) with:
- (a) for a transfer under section RP 17B(4)(a) or (b), a date nominated that is no earlier than the first day of the relevant income year:
- (2) Subsection (1) applies to the 2017–18 and later income years.
- Section 170(2): amended (with effect on 30 March 2022), on 31 March 2023, by section 220 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

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

- (1) This section amends section YA 1.
- (2) Insert, in appropriate alphabetical order:
- 5-year test land** is defined in section CB 6A(1) (Disposal within 10 years: bright-line test for residential land)
- (3) Insert, in appropriate alphabetical order:
- 10-year test land** is defined in section CB 6A(1) (Disposal within 10 years: bright-line test for residential land)
- (4) Insert, in appropriate alphabetical order:
- boarding establishment** means premises used in a business of supplying accommodation, if the premises are managed by the business and have—
- (a) at least 10 boarding rooms that are not self-contained; and
  - (b) shared living facilities available, as appropriate, to all residents
- (5) Insert, in appropriate alphabetical order:

- bright-line acquisition date** means the relevant bright-line acquisition date described in sections CB 6A to CB 6AE and CZ 39 (which relate to the bright-line test for residential land)
- (6) In the definition of **bright-line date**, replace “**bright-line date**” with “**bright-line disposal date** and **bright-line date**”.
- (7) In the definition of **bright-line period**, paragraph (a), replace “CB 6A(1) to (5)” with “CB 6A(3) to (7C)”.
- (8) In the definition of **capital contribution**, paragraph (a),—
- (a) in the words before the subparagraphs, before “CG 8,”, insert “CC 1B,”;
  - (b) in subparagraph (iii), delete “(Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence)”.
- (9) Insert, in appropriate alphabetical order:
- code compliance certificate** is defined in section DH 5 (Key terms)
- (10) Insert, in appropriate alphabetical order:
- cryptoasset** means a digital representation of value that exists in—
- (a) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralised form and shared across different locations and persons; or
  - (b) another application of the same technology performing an equivalent function
- (11) Insert, in appropriate alphabetical order:
- cryptocurrency** means a cryptoasset that is not a non-fungible token
- (12) Replace the definition of **date of acquisition** with:
- date of acquisition** is defined in section CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018) for the purposes of that section
- (13) In the definition of **decommissioning**,—
- (a) repeal paragraph (b)(ii):
  - (b) paragraph (d)(i), delete “, exploratory well,”.
- (14) Insert, in appropriate alphabetical order:
- disallowed residential property** is defined in section DH 5 (Key terms)
- (15) In the definition of **dwelling**,—
- (a) paragraph (b)(ii), replace “boardinghouse” with “boarding establishment”;
  - (b) paragraph (c), words before the subparagraphs, replace “section CB 16A (Main home exclusion for disposal within 5 years)” with “sections

CB 16A and CZ 40 (which relate to main home exclusions for disposals of residential land within bright-line periods)”.

- (16) In the definition of **election day worker**,—
- (a) paragraph (a), replace “a Deputy Returning Officer, poll clerk,” with “an electoral official,”;
  - (b) paragraph (c), replace “the day on which the election or poll is held” with “the days on which voting is held in New Zealand for the election or poll”.
- (17) Insert, in appropriate alphabetical order:
- employee accommodation**—
- (a) means property that the person, or a company in the same wholly-owned group of companies as the person, provides to their employees or other workers for accommodation in connection with their employment or service;
  - (b) does not include accommodation provided to employees or other workers who are associated with the person, unless it is necessary for the person to provide the accommodation because of the nature or remoteness of a business carried on by them
- (18) In the definition of **employer**, repeal paragraph (d).
- (19) Insert, in appropriate alphabetical order:
- excepted residential land** is defined in section DH 5 (Key terms)
- (20) Repeal the definition of **excluded day**.
- (21) Insert, in appropriate alphabetical order:
- exempted predominant main home day** is defined in section CB 16A(1B) (Key term: exempted predominant main home day)
- (22) Insert, in appropriate alphabetical order:
- exempt main home** means an exempt main home described in section CB 16A(1) (Main home exclusion)
- (23) Insert, in appropriate alphabetical order:
- exempt main home period limit** is defined in section CB 16A(1C) (Key term: exempt main home period)
- (24) Insert, in appropriate alphabetical order:
- exempt Māori company** is defined in section DH 5 (Key terms)
- (25) In the definition of **finance lease**, paragraph (c)(iii), replace “NZIAS 17” with “NZ IFRS 16”.
- (26) Insert, in appropriate alphabetical order:
- grandparented residential interest** is defined in section DH 7 (Grandparented residential interest)

- (27) Insert, in appropriate alphabetical order:  
**grandparented structure** is defined in section EZ 23BD(2) (Meaning of grandparented structure) for the purposes of that section
- (28) Insert, in appropriate alphabetical order:  
**grandparented transitional loan** is defined in section DH 5 (Key terms)
- (29) 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 10 years) for the purposes of subsection (4) of that section:  
(c) is defined in section CZ 40(5) (Main home exclusion for bright-line: acquisition on or after 29 March 2018) for the purposes of subsection (4) of that section
- (30) 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 10 years) for the purposes of subsection (4) of that section:  
(c) is defined in section CB 16(5) (Residential exclusion from sections CB 6 to CB 11) for the purposes of subsection (4) of that section:  
(d) is defined in section CB 19(2C) (Business exclusion from sections CB 6 to CB 11) for the purposes of subsection (2B) of that section:  
(e) is defined in section CZ 40(5) (Main home exclusion for bright-line: acquisition on or after 29 March 2018) for the purposes of subsection (4) of that section
- (31) Insert, in appropriate alphabetical order:  
**hybrid entity** is defined in section FH 15(1) (Definitions)  
**hybrid mismatch** is defined in section FH 15(1) (Definitions)
- (32) Insert, in appropriate alphabetical order:  
**interposed residential property holder** is defined in section DH 5 (Key terms)
- (33) Insert, in appropriate alphabetical order:  
**interposed residential property percentage** is defined in section DH 6 (Interposed residential property percentage)
- (34) Insert, in appropriate alphabetical order:  
**main home person** is defined in section CB 16A(1D) (Key term: main home person)

(35) Insert, in appropriate alphabetical order:

**Māori excepted land—**

- (a) means—
- (i) Māori customary land, Māori freehold land, or Crown land reserved for Māori, or land set aside as a Māori reservation, as the relevant terms are defined in Te Ture Whenua Maori Act 1993:
  - (ii) land provided as a residence to a shareholder or beneficiary of a Maori authority or of an entity eligible to become a Maori authority, to the extent to which the land is either owned in whole or in part, directly or indirectly by that Maori authority or entity (**owner A**), or owned in whole or in part, directly or indirectly by a Maori authority or an entity eligible to become a Maori authority that is a co-owner of the land with owner A:
  - (iii) land, owned directly or indirectly by a Maori authority or an entity eligible to become a Maori authority, to the extent to which the land is from a Treaty of Waitangi settlement relating to that Maori authority or entity, including by exercising a right of first refusal under such a settlement:
- (b) does not include land described in paragraph (a)(iii), if the land is held as lessee, and the lessee is not owned, directly or indirectly, by the relevant Maori authority or the relevant entity eligible to become a Maori authority

(36) Insert, in appropriate alphabetical order:

**new build land** is defined in section DH 5 (Key terms)

(37) In the definition of **nominal share**, replace “forgiven” with “remitted”.

(38) Insert, in appropriate alphabetical order:

**non-eligible assets** is defined in section EM 8 (Some definitions)

(39) Insert, in appropriate alphabetical order:

**non-fungible token** means a cryptoasset that contains unique distinguishing identification codes or metadata

(40) Replace the definition of **principal settlor** with:

**principal settlor** means, for a trust, a settlor whose settlements for the trust are the greatest or greatest equal, by market value

(41) In the definition of **proportional debt ratio**, replace “forgiven” with “remitted”.

(42) In the definition of **proportional ownership ratio**, replace “forgiven” with “remitted”.

(43) In the definition of **residential land**, paragraph (a)(iii), replace “may used” with “may be used”.

- (44) Insert, in appropriate alphabetical order:  
**residential land company** is defined in section DH 5 (Key terms)
- (45) Insert, in appropriate alphabetical order:  
**residential land wholly-owned group member** is defined in section DH 5 (Key terms)
- (46) In the definition of **settlement**, paragraph (c), replace “section CB 16A(3) (Main home exclusion for disposal within 5 years)” with “section CB 16A(7) (Main home exclusion for disposal within 10 years)”.
- (47) Insert, in appropriate alphabetical order:  
**student accommodation**—
- (a) means commercial boarding premises used to provide accommodation for students enrolled at a registered school, or premises described in section 5B of the Residential Tenancies Act 1986; and
  - (b) includes premises described in section 5B of the Residential Tenancies Act 1986 even if they are used mainly for the accommodation of students, but not exclusively for the accommodation of students
- (48) Subsection (8) applies to an amount derived on or after 1 April 2015.
- (49) Subsection (25) applies for income years beginning on or after 1 January 2019.
- (50) Subsection (27) applies for the 2020–21 and later income years.
- (51) Subsection (43) 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 (43) 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 (43) 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.
- (52) Subsection (15)(a) applies for the 2022–23 and later income years.

**172 Section YA 4 amended (General rules for giving information or communicating matters)**

In section YA 4(3), replace “post, fax, or electronic means” with “post, or electronic means”.

**173 Section YC 13 amended (Corporate spin-outs)**

(1) In section YC 13(1)(b), after “market value interest”, insert “(the **spun-out subsidiary interest**)”.

(2) After section YC 13(1)(d), insert:

(db) after the transfer or issue, the interest in the spun-out company is treated under section YC 10 as being held by a notional single person; and

(3) In section YC 13(1)(e), replace “the voting interest or market value interest in the spun-out subsidiary” with “the spun-out subsidiary interest”.

(4) After section YC 13(1), insert:

*Modified look-through rule for transitional ownership of spun-out company*

(1B) For the purposes of applying the continuity provisions to the ownership of the spun-out company from the date of the transfer or issue, if the original parent is treated, in the absence of this subsection, as holding an interest in the spun-out company (the **spun-out company interest**) for a period (the **preceding ownership period**) ending with the transfer or issue, the notional single person referred to in subsection (1)(db) is treated as holding the spun-out company interest—

(a) during the preceding ownership period; and

(b) to the extent to which, immediately after the transfer or issue, a group of persons exists who hold common interests in the original parent and the spun-out company, calculated on the assumption that the only voting interests and market value interests in those companies are those treated as held by a notional single person under section YC 10.

(5) Replace the heading for section YC 13(2) with “*Modified look-through rule for transitional ownership of spun-out subsidiary*”.

(6) In section YC 13(2), words before the paragraphs, replace “the voting interest or market value interest in the spun-out subsidiary” with “the spun-out subsidiary interest”.

(7) In section YC 13(2)(a), replace “interest” with “spun-out subsidiary interest”.

**174 Section YE 1 amended (References to balance dates and years)**

In section YE 1(6), replace “31 March” with “30 March”.

**175 Section YZ 5 amended (New Zealand Memorial Museum Trust)**

Replace section YZ 5(b) with:

(b) ends on 31 March 2025.

**176 New Schedule 15 inserted (Excepted residential land)**

After Schedule 14, insert the Schedule 15 set out in Schedule 1 of this Act.

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

- (1) In schedule 21B, part B, clause 21, replace “for the Callaghan Innovation project grant.” with “for the Callaghan Innovation project grant. Nor does it include an amount related to an RDTI transition support payment.”
- (2) Subsection (1) applies for the 2019–20 and later income years.

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

- (1) This section amends schedule 32.
- (2) Replace “Child Rescue Charitable Trust” with “Child Rescue Charitable Aid Trust”.
- (3) Replace “UN Women National Committee Aotearoa New Zealand Incorporated” with “UN Women Aotearoa New Zealand Incorporated”.
- (4) Insert, in appropriate alphabetical order:
  - (a) “Community Transformation Trust”:
  - (b) “Firefly Children’s Home Charitable Trust”:
  - (c) “Hadassah Medical Relief Association of New Zealand”:
  - (d) “Hands Across the Water New Zealand Trust”:
  - (e) “Institute for Indian Mother and Child Aotearoa Charitable Trust”:
  - (f) “Medic to Medic”:
  - (g) “Missio Benevolent Society”:
  - (h) “Prabh Aasra Trust”:
  - (i) “Reemi Charitable Trust”:
  - (j) “Talalelei Life Futures Fund”:
  - (k) “YWAM Ships Aotearoa Limited”.
- (5) Delete—
  - (a) “Books for Cambodia Trust”:
  - (b) “Channel 2 Cyclone Aid for Samoa”:
  - (c) “Cyclone Ofa Relief Fund”:
  - (d) “Cyclone Val Relief Fund”:
  - (e) “Kyrgyzstan New Zealand Rural Trust”:
  - (f) “L Women of Africa Fund”:
  - (g) “The Band Aid Box”:

- (h) “The Serious Road Trip Charitable Trust”;
  - (i) “The Sir Walter Nash Vietnam Appeal”.
- (6) Subsection (4) applies for a gift made to a person in the 2021–22 or later income year of the person.

## Part 4 Amendments to other enactments

### *Amendments to Tax Administration Act 1994*

#### **179 Amendments to Tax Administration Act 1994**

Sections 180 to 232 amend the Tax Administration Act 1994.

#### **180 Section 3 amended (Interpretation)**

- (1) This section amends section 3(1).
- (2) In the definition of **civil penalty**, after paragraph (cc), insert:
  - (cd) a penalty under section 141EE; or
- (3) Insert, in appropriate alphabetical order:
  - electronic sales suppression tool** means a software program, device, tool, or other thing, part of a thing, or combination of things or parts,—
    - (a) that can hide, conceal, modify, falsify, destroy, or prevent the creation of a record that—
      - (i) a person is required under a tax law to make or keep; and
      - (ii) is, or would be, created by a system that is or includes an electronic point of sale system; and
    - (b) the use of which would lead to a reasonable conclusion that 1 of its principal functions is to facilitate the concealment, modification, falsification, destruction, or prevention of the creation of a record
- (4) In the definition of **employment income information**, after “80D,”, insert “108AB, 108B,”.
- (5) In the definition of **proscribed question**, paragraph (b), delete “, other than in relation to the test of principal purpose of making taxable supplies as described in section 91CB(3)(c)”.
- (6) In the definition of **START tax type**, after paragraph (g), insert:
  - (gb) casino duty;
  - (gc) lottery duty;
  - (gd) totalisator duty;
- (7) Repeal the definition of **START tax type**.

- (8) In the definition of **tax shortfall**, paragraph (b), replace “section 46(6B)” with “section 23K”.

**181 Section 7AA amended (Authorisation to make payments under small business cashflow loan scheme)**

In section 7AA(4), after “the person”, insert “, or an associated person who receives the benefit of the payment other than as adequate consideration for a supply of goods or services,”.

**182 Section 7AAB amended (Authorisation to make COVID-19 support payments)**

In section 7AAB(7), after “the person”, insert “, or an associated person who receives the benefit of the grant, other than as adequate consideration for a supply of goods or services”.

**183 Section 14 amended (Modes of communication: general provisions)**

In section 14(2), replace “post, fax, or electronic means” with “post, or electronic means”.

**184 Section 14F amended (Giving information by personal delivery, post, fax, or electronic means)**

- (1) In the heading to section 14F, replace “**post, fax, or electronic means**” with “**post, or electronic means**”.
- (2) Repeal section 14F(3)(b).
- (3) Repeal section 14F(8).

**185 Section 14G amended (Contact addresses)**

Repeal section 14G(1)(d).

**186 Section 16C amended (Key terms)**

- (1) Replace section 16C(2)(a) with:
- (a) in connection with a revenue law and for a purpose set out in section 16B(1):
- (2) In section 16C(3)(a),—
- (a) replace “means revenue information that relates to the affairs of a person or entity” with “means revenue information”:
- (b) in subparagraph (i), replace “the person or entity” with “a person or entity”.
- (3) After section 16C(3)(b), insert:
- (c) does not include information if the only person or entity that it identifies is the Commissioner or chief executive of the Inland Revenue Depart-

ment, unless it relates to the application of the Inland Revenue Acts to the Inland Revenue Department as a taxpayer.

**187 Section 17B amended (Commissioner may require information or production of documents)**

In section 17B(4), replace “this section,” with “this section and section 17L,”.

**188 Section 22D amended (Key terms)**

(1) After section 22D(3)(iii), insert:

(iiib) a payment under the wage subsidy scheme defined in section 7AA(6):

(iiic) a payment under the leave support scheme made by the Ministry of Social Development on behalf of the Crown in relation to leave taken as a consequence of COVID-19:

(iiid) a payment under the short-term absence scheme made by the Ministry of Social Development on behalf of the Crown in relation to absence from work as a consequence of COVID-19:

(2) Subsection (1) applies for the 2021–22 and later income years.

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

(1) Replace section 25MB(8)(a)(ii) with:

(ii) a custodial institution that is not resident in New Zealand; and

(2) After section 25MB(8), insert:

*When branches located in New Zealand*

(9) For the purposes of subsection (8)(a)(ii), if the non-resident custodial institution has a branch located in New Zealand that receives a payment of investment income, the branch is treated as the person who must provide investment income information relating to the payment under subsection (3).

(3) Subsections (1) and (2) apply for the 2020–21 and later income years.

**190 New section 25NB inserted (De minimis filing requirements for certain persons)**

(1) After section 25N, insert:

**25NB De minimis filing requirements for certain persons**

*When this section applies*

(1) This section applies when a person is required to withhold an amount of tax under—

(a) section RE 21(3) of the Income Tax Act 2007:

(b) section RF 13(2) of that Act:

(c) section 86KA of the Stamp and Cheque Duties Act 1971.

*When this section does not apply*

- (2) This section does not apply when a person withholds an amount of tax referred to in section RE 21(6) and (7) of the Income Tax Act 2007.

*Delivery of investment income information*

- (3) Despite sections 25E, 25F, and 25H, the person may deliver the investment income information for the payment to the Commissioner—
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
  - (b) for the period in the tax year from 1 April to 30 September, by 20th October after the end of the period; and
  - (c) for the period in the tax year from 1 October to 31 March, by 20th April after the end of the period.

- (2) Subsection (1) applies for the 2022–23 and later income years.

**191 New section 33F inserted (Research and development tax credits: extension of time for 2019–20 income year)**

After section 33E, insert:

**33F Research and development tax credits: extension of time for 2019–20 income year**

The time for a person to file a supplementary return under section 33E for the 2019–20 income year is extended to 31 August 2021, or such later date otherwise allowed by that section.

**192 Section 43B amended (Non-active trusts may be excused from filing returns)**

- (1) Replace the heading for section 43B with “**Trustees of non-active trusts and administrators or executors of non-active estates may be excused from filing returns**”.

- (2) Replace section 43B(1) and (2) with:

- (1) A person who is a trustee of a trust or an administrator or executor of an estate is not required to make a return of income for a tax year for the trust or estate if—
- (a) the trust or estate is non-active throughout the income year corresponding to the tax year; and
  - (b) for a person who is a trustee, the trust is a complying trust under section HC 10 of the Income Tax Act 2007; and
  - (c) the person has provided to the Commissioner, in a form approved by the Commissioner,—

- (i) a declaration that the trust or estate is non-active and that the person will notify the Commissioner if the trust or estate ceases to be non-active; and
  - (ii) a statement of the matters required by the Commissioner.
- (2) For the purposes of this section, a trust or estate is non-active for a tax year if, throughout the income year corresponding to the tax year, the trustee of the trust or the administrator or executor of the estate—
  - (a) has not derived any income; and
  - (b) has no deductions; and
  - (c) has not been a party to, or perpetuated, or continued with, transactions with assets of the trust or estate which, during the corresponding income year,—
    - (i) give rise to income in any person’s hands; or
    - (ii) give rise to fringe benefits to an employee or to a former employee.
- (3) In section 43B(3),—
  - (a) words before the paragraphs, replace “trust” with “trust or estate”;
  - (b) paragraph (a),—
    - (i) replace “trustees” with “persons”;
    - (ii) replace “trust” with “trust or estate”;
  - (c) paragraph (c), replace “trust” with “trust or estate”;
  - (d) paragraph (d), replace “trust” with “trust or estate” in each place.
- (4) In section 43B(4),—
  - (a) replace “a trust” with “a trust or estate”;
  - (b) replace “trustee of the trust” with “trustee of the trust or administrator or executor of the estate”;
  - (c) replace “that the trust” with “that the trust or estate”;
  - (d) replace “a non-active trust” with “non-active”.
- (5) In section 43B(5), replace “trustees of a non-active trust shall” with “a person who is a trustee of a non-active trust or an executor or administrator of a non-active estate must”.

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

- (1) In section 54C(1), words before the paragraphs, replace “within 10 years” with “within 10 years or 5 years, as the case may be,”.
- (2) In section 54C(1)(b), replace “their date of acquisition of the land” with “the latest date on which they acquire the estate or interest in the residential land”.

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

- (1) Replace section 59BA(2)(d) with:

- (d) the amount, and nature, of each distribution that—
- (i) is not a distribution, other than of money, that is minor and incidental to the activities of the trust; and
  - (ii) is made by the trustee in the income year:
- (db) the name, date of birth, jurisdiction of tax residence, and tax file number or taxpayer identification number, of the beneficiary who receives a distribution referred to in paragraph (d):

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

- (b) the trust is a foreign trust:

- (3) Subsections (1) and (2) apply for the 2021–22 and later income years.

**195 Section 68CB amended (Research and development tax credits: general approval)**

- (1) In section 68CB(2), replace “income year (the **first income year**) and up to 2 further consecutive income years” with “income year (the **first income year**), the income year immediately before (the **prior year**), and up to 2 income years immediately after”.

- (2) In section 68CB(2), replace “the end of the first income year.” with “the end of the first income year. For a prior year, the Commissioner may only approve supporting research and development activities described in section LY 5(1)(ab)(i) of the Income Tax Act 2007.”

- (3) After section 68CB(7), insert:

- (7B) The Commissioner may vary an approval, upon application, to the extent to which the variation application relates solely to a supporting research and development activity for the income year immediately after the relevant income year, as provided by section LY 5(1)(ab)(ii) of the Income Tax Act 2007, if the variation application meets the requirements of subsection (1)(a) of this section, the variation applied for meets the requirements of subsection (4) of this section, and the application is made on or before the 7th day of the 14th month after the end of the relevant income year. If the Commissioner accepts the variation, then the Commissioner must notify the person in accordance with subsection (5) of this section.

- (7C) The Commissioner may vary an approval, upon application, to the extent to which the variation application relates solely to a supporting research and development activity for the 2019–20 income year, if the variation application meets the requirements of subsection (1)(a) of this section, the variation applied for meets the requirements of subsection (4) of this section, and the application is made on or before 31 August 2022. If the Commissioner accepts

the variation, then the Commissioner must notify the person in accordance with subsection (5) of this section.

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

- (1) In section 68CC(3), replace “income year (the **first income year**) and up to 2 further consecutive income years” with “income year (the **first income year**), the income year immediately before (the **prior year**), and up to 2 income years immediately after”.
- (2) In section 68CC(3), replace “the end of the first income year (**application date**).” with “the end of the first income year (**application date**). For a prior year, the Commissioner may only approve supporting research and development activities described in section LY 5(1)(ab)(i) of the Income Tax Act 2007.”

**197 New section 68CF inserted (Research and development tax credits: extension of time for approvals)**

- (1) After section 68CE, insert:

**68CF Research and development tax credits: extension of time for approvals**

- (1) The time for a person to make an application, or an application to vary, in relation to an approval under sections 68CB and 68CC for the 2020–21 income year is extended to 31 August 2021, or such later date otherwise allowed by those sections.
  - (2) The time for a person to make an application in relation to an approval under section 68CB for an income year is extended to the date that is 3 months after the date that the Commissioner notifies to the person the outcome of their application, for the income year, under section 68CC(4) if they make such an application, or such later date otherwise allowed by section 68CB.
- (2) Subsection (1) applies for the 2020–21 and later income years.

**198 Section 89B amended (Commissioner may issue notices of proposed adjustment)**

Replace section 89B(4)(b)(ii) with:

- (ii) sections 108A and 108B; or
- (iii) sections 108AB and 108B,—

**199 Section 89L (Application to High Court)**

In section 89L(1)(b)(ii), replace “section 108(2) or section 108A(3)” with “section 108(2), 108AB(2), or 108A(3)”.

**200 Section 89P amended (Challenge notice for taxpayer-initiated disputes)**

Replace section 89P(2) with:

- (2) Despite subsection (1), the Commissioner is not required to issue a challenge notice—
- (a) to the extent to which the dispute has ended:
  - (b) when—
    - (i) the Commissioner has issued an amended assessment that reflects some but not all of the adjustments proposed by the disputant; and
    - (ii) the disputant has a right of challenge under section 138B(2).

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

After section 108(1C)(a)(i), insert:

- (ib) provides a return for an amount required to be deducted under section 221 of the Accident Compensation Act 2001 for a period which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer:

**202 New section 108AB inserted (Time bar for amending assessment of KiwiSaver contributions)**

After section 108A, insert:

**108AB Time bar for amending assessment of KiwiSaver contributions**

- (1) The Commissioner may not amend an assessment so as to increase an amount assessed when—
- (a) a taxpayer provides employment income information that includes—
    - (i) an amount required to be deducted under Part 3, subpart 1 of the KiwiSaver Act 2006 which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer;
    - (ii) an amount of KiwiSaver Act 2006 employer contributions payable which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer; and
  - (b) 4 years have passed from the date on which the taxpayer provided the employment income information.
- (2) However, if the Commissioner is of the opinion that employment income information provided by a taxpayer is fraudulent or wilfully misleading, the Commissioner may amend the assessment at any time so as to increase its amount.
- (3) This section overrides every other provision of this Act, and any other rule or law, that limits the Commissioner’s right to amend assessments.

**203 Section 108B amended (Extension of time bars)**

- (1) In section 108B(3)(f), replace “provided.” with “provided; and”.

- (2) After section 108B(3)(f), insert:
- (fb) the time bar occurring under section 108AB after the period of 4 years from the date on which the taxpayer provided the employment income information.
- 204 Section 113 amended (Commissioner may at any time amend assessments)**
- (1) In section 113(1), replace “sections 89N and 113D” with “section 89N”.
- (2) Subsection (1) applies for the 2019–20 and later income years.
- 205 Section 113A amended (Correction of certain errors in subsequent returns)**
- In section 113A(4),—
- (a) words before the paragraphs, after “assessment”, insert “or return, as applicable,”;
- (b) replace paragraph (b) with:
- (b) 2% of the person’s—
- (i) output tax, in the case of an assessment of goods and services tax; or
- (ii) annual gross income, in any other case.
- 206 Section 120KE amended (Provisional tax and rules on use of money interest)**
- (1) Replace section 120KE(1)(a) with:
- (a) they are required to calculate instalments under the standard methods described in section RC 5(2) and (3) of the Income Tax Act 2007 or they have no obligation to pay provisional tax for the tax year under section RC 3(3) of that Act; and
- (2) Subsection (1) applies for the 2022–23 and later income years.
- 207 Section 120KF repealed (Tolerance for provisional tax instalments)**
- (1) Repeal section 120KF.
- (2) Subsection (1) applies for the 2022–23 and later income years.
- 208 Section 125 amended (Certain rights of objection not conferred)**
- In section 125(j)(iv), replace “108A, 108B,” with “108A, 108AB, 108B,”.
- 209 Section 138E amended (Certain rights of challenge not conferred)**
- (1) In section 138E(1)(e)(iv), replace “17F,” with “6E, 6F, 17F,”.
- (2) In section 138E(1)(e)(iv), delete “108A,”.
- (3) Subsection (2) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

**210 Section 138P amended (Powers of hearing authority)**

In section 138P(5), replace “108A, and 108B” with “108A, 108AB, and 108B”.

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

- (1) Repeal section 139A(10).
- (2) Subsection (1) applies for penalties imposed after 1 April 2022.

**212 Section 139AA amended (Non-electronic filing penalty)**

- (1) Repeal section 139AA(7).
- (2) Subsection (1) applies for penalties imposed after 1 April 2022.

**213 Section 139B amended (Late payment penalty)**

- (1) Repeal section 139B(1B).
- (2) After section 139B(2B)(e), insert:
  - (f) an electronic sales suppression penalty under section 141EE.
- (3) In section 139B(3B), replace “section 24LC(3) or 157” with “section 157 or schedule 5, part C, clause 4(3)”.
- (4) In section 139B(5A), replace “section 24LC(3) or 157” with “section 157 or schedule 5, part C, clause 4(3)”.
- (5) Subsection (1) applies for penalties imposed after 1 April 2022.

**214 Section 141 amended (Tax shortfalls)**

In section 141(2), replace “section 141AA(1).” with “sections 141AA(1) and 141EE(4).”

**215 New section 141EE inserted (Penalty for acquiring or possessing electronic sales suppression tools)**

After section 141ED, insert:

**141EE Penalty for acquiring or possessing electronic sales suppression tools**

- (1) This section applies to a person who—
  - (a) is required by a tax law to make or keep records; and
  - (b) knowingly acquires, or has possession or control of an electronic sales suppression tool (the **suppression tool**), or a right to use a suppression tool; and
  - (c) has a purpose in relation to the suppression tool of evading the assessment or payment of tax under a tax law, whether by them or by another person.
- (2) This section does not apply when the person—
  - (a) acquires a business whose operations include the use of the suppression tool or the right to use it; and

- (b) could not reasonably be expected to be aware of the existence of the suppression tool in the business; and
  - (c) has not used the suppression tool in the business.
- (3) The person is liable to pay an electronic sales suppression penalty of \$5,000.
- (4) For the purposes of the imposition of a penalty under subsection (3), a person to whom this section applies is liable to pay a single penalty for all related tax types and periods. A further penalty may be imposed for a later period of time for the continued possession or control of, or right to use, the suppression tool.
- (5) For the purposes of subsection (1)(c), and without limiting the provision, a person is treated as meeting the purpose test if they have used the suppression tool to evade the assessment or payment of tax.

**216 Section 141FB amended (Reduction of penalties for previous behaviour)**

After section 141FB(5), insert:

- (6) Despite subsection (1), no reduction in the amount payable is allowed when an electronic sales suppression penalty is imposed under section 141EE(3) on a person—
- (a) who is liable to a penalty under section 141E(1); and
  - (b) whose use of an electronic sales suppression tool contributes to the evasion or similar act.

**217 New section 141GB inserted (Reduction of electronic sales suppression penalties)**

After section 141G, insert:

**141GB Reduction of electronic sales suppression penalties**

- (1) This section applies when a person—
- (a) is liable to pay an electronic sales suppression penalty imposed under section 141EE; and
  - (b) discloses to the Commissioner details relating to the acquisition, possession, control, or use of the electronic sales suppression tool.
- (2) The penalty payable by the person may be reduced if, in the Commissioner's opinion, the person has made a full disclosure of all the details relating to the suppression tool.
- (3) The disclosure referred to in subsection (1) may be either—
- (a) a pre-notification disclosure made before the person is notified of a pending tax audit or investigation; or
  - (b) a post-notification disclosure made after the person is notified of a pending tax audit or investigation, but before the Commissioner starts the audit or investigation.

- (4) The level by which the penalty is reduced under subsection (2) is,—
  - (a) for pre-notification disclosure, 100%:
  - (b) for post-notification disclosure, 40%.
- (5) Section 141G(4) and (5) apply for the purposes of subsection (3) in determining—
  - (a) whether a person has been notified of a pending tax audit or investigation; and
  - (b) the time at which an audit or investigation starts.
- (6) The Commissioner may specify the information required for a full disclosure and the form in which it must be provided.

**218 Section 142B amended (Due date for shortfall penalties)**

After section 142B(2), insert:

- (3) A shortfall penalty that is an electronic sales suppression penalty under section 141EE is due and payable on the relevant date set out in subsection (1)(a), treating the electronic sales suppression penalty as if it were an amount of unpaid tax.

**219 Section 143 amended (Absolute liability offences)**

- (1) In the heading to section 143, after “offences”, insert “**and strict liability offences**”.
- (2) In section 143(1)(ba),—
  - (a) replace “a tax invoice” with “taxable supply information”;
  - (b) replace “section 24” with “section 19K or 19L”.
- (3) In section 143(1)(c), replace “1985.” with “1985; or”.
- (4) After section 143(1)(c), insert:
  - (d) claims, under section 20(3) of the Goods and Services Tax Act 1985, more than 1 amount of input tax for a taxable supply to the person, resulting in a total amount of input tax claimed by the person for the taxable supply that exceeds the output tax charged to the person for the taxable supply.
- (5) After section 143(2C), insert:
- (2D) No person may be convicted of an offence against subsection (1)(d) if the person proves that the person, either or both,—
  - (a) took reasonable care when claiming the amounts of input tax;
  - (b) corrected, under section 113A of the Tax Administration Act 1994, the amount claimed for input tax.
- (6) Subsections (3), (4), and (5) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.

- (7) Subsection (2) applies for taxable periods starting on or after 1 April 2023.

**220 Section 143A amended (Knowledge offences)**

- (1) Repeal section 143A(1)(f).
- (2) In section 143A(1)(fb), replace “section 24BAB(3)” with “section 19M(4)”.
- (3) In section 143A(1)(fc), replace “section 24BAC” with “section 12C”.
- (4) Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- (5) Subsections (2) and (3) apply for taxable periods starting on or after 1 April 2023.

**221 New sections 143BB and 143BC inserted**

After section 143B, insert:

**143BB Manufacturing or supplying electronic sales suppression tools**

- (1) A person commits an offence against this Act if they knowingly manufacture, develop, or publish an electronic sales suppression tool (the **suppression tool**) that is provided to a person referred to in subsection (2) or section 141EE or 143BC.
- (2) A person commits an offence against this Act if they—
- (a) knowingly supply, make available for use, or otherwise provide the suppression tool or a right to use the suppression tool to a person resident in New Zealand;
- (b) knowingly provide a service to a person resident in New Zealand that includes the use of the suppression tool.
- (3) A person who is convicted of an offence under subsection (1) or (2) is liable to a fine not exceeding \$250,000.

**143BC Acquiring or possessing electronic sales suppression tools**

- (1) A person commits an offence against this Act if they—
- (a) are required by a tax law to make or keep records; and
- (b) knowingly acquire, or have possession or control of an electronic sales suppression tool (the **suppression tool**), or a right to use the suppression tool; and
- (c) have a purpose in relation to the suppression tool of evading the assessment or payment of tax under a tax law, whether by them or by another person.
- (2) Subsection (1) does not apply when the person—
- (a) acquires a business whose operations include the use of the suppression tool or a right to use it; and

- (b) could not reasonably be expected to be aware of the existence of the suppression tool in the business; and
  - (c) has not used the suppression tool in the business.
- (3) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding \$50,000.
- (4) For the purposes of the imposition of a penalty under subsection (3), a person to whom this section applies is treated as committing a single offence in relation to all tax types and periods. A further penalty may be imposed for a later period of time for the continued possession or control of, or right to use, the suppression tool.
- (5) For the purposes of subsection (1)(c), and without limiting the provision, a person is treated as meeting the purpose test if they have used the suppression tool to evade the assessment or payment of tax.

**222 Section 143D amended (Offences related to disclosure of certain information by persons other than revenue officers)**

After section 143D(1)(a), insert:

- (ab) a person who acquires, has access to, or is given the information as an officer, employee, or agent of an agency referred to in schedule 7, part C, clauses 20, 23, 23B, 24 to 29, 30, 31, 33, 34A, 35 to 38, 39B, 42, 44, 45, and 45B; or

**223 Section 157A amended (Application of Parts 7 and 9 to defaulters)**

After section 157A(1)(a)(i), insert:

- (ib) section 12L of the Gaming Duties Act 1971; or

**224 Section 173K amended (Application)**

After section 173K(2), insert:

- (3) Subsection (2) does not apply for Part O of the Income Tax Act 2007.

**225 Section 183ABA amended (Remission in circumstances of emergency event)**

Replace section 183ABA(1)(a) with:

- (a) the taxpayer fails to make a payment required by a tax law (the **required payment**) on or before the due date for the required payment; and
- (ab) the failure is a consequence of an emergency event, declared in an Order in Council under this section, that significantly adversely affects the ability of the taxpayer to do either or both of—
  - (i) make a reasonably accurate forecast, on 1 or more provisional tax instalment dates for a tax year, of the taxpayer’s residual income tax for the tax year:

- (ii) make the required payment on or before the due date for the required payment; and

**226 Section 183ABAB amended (Remission of interest for taxpayers affected by COVID-19: general rules)**

Replace section 183ABAB(4) with:

- (4) The time limit imposed by subsection (3)(b) may be extended by Order in Council—
  - (a) made on the recommendation of the Minister of Revenue; and
  - (b) made before, or no more than 6 months after, the time limit (the **previous time limit**) applying immediately before the Order in Council comes into force; and
  - (c) extending the time limit by no more than 36 months from the previous time limit for—
    - (i) all persons affected by the previous time limit; or
    - (ii) a class or classes of persons affected by the previous time limit and described in the Order in Council.

**227 Section 183ABAC amended (Remission of interest on terminal tax for 2020–21 tax year for provisional taxpayers affected by COVID-19)**

- (1) In the heading to section 183ABAC,—
  - (a) replace “**terminal tax**” with “**residual income tax**”;
  - (b) replace “**2020–2021 tax year**” with “**2020–2021 or 2021–2022 tax year**”.
- (2) In section 183ABAC(1), words before paragraph (a), replace “2020–21 tax year” with “2020–21 or 2021–22 tax year (the **affected tax year**)”.
- (3) In section 183ABAC(1)(a) and (b), replace “2020–21 tax year” with “affected tax year” in each place.
- (4) In section 183ABAC(1)(c)(i), replace “terminal tax” with “residual income tax”.
- (5) In section 183ABAC(1)(c) and (d), replace “2020–21 tax year” with “affected tax year” in each place.
- (6) In section 183ABAC(2), replace “between 31 March 2020 and the taxpayer’s terminal tax date for the 2020–21 tax year” with “between the 31 March before the affected tax year and the taxpayer’s terminal tax date for the affected tax year”.
- (7) In section 183ABAC(3)(b),—
  - (a) replace “terminal tax” with “residual income tax”;
  - (b) replace “2020–21 tax year” with “affected tax year”.

- (8) Subsections (1)(b), (2), (3), (5), (6), and (7)(b) apply for the 2020–21 and 2021–22 tax years.

Section 227(8): amended (with effect on 30 March 2022), on 28 March 2024, by section 183 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

**228 Section 183C amended (Cancellation of interest)**

- (1) Repeal section 183C(4B)(b).
- (2) In section 183C(4B)(c), replace “the START tax type” with “the tax assessed”.
- (3) In section 183C(4C), replace “the START tax type” with “the tax assessed”.
- (4) Repeal section 183C(4D)(b).
- (5) In section 183C(4D)(c), replace “the START tax type” with “the tax assessed”.
- (6) In section 183C(4E), replace “the START tax type” with “the tax assessed”.
- (7) Subsections (1), (2), and (3) apply for statements of account issued by the Commissioner after 1 April 2022.

**229 Section 225 amended (Regulations)**

- (1) Repeal section 225(1)(c) and (d).
- (2) Repeal section 225(2).

**230 Section 225AA repealed (Regulations: co-operative dairy and marketing companies)**

Repeal section 225AA.

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

- (1) In schedule 7, part C, subpart 1, replace clause 23B(2) to (5) with:
- (2) Despite subclause (1), the Commissioner may disclose the information only if the Commissioner considers that—
  - (a) the information is readily available; and
  - (b) it is reasonable and practicable to disclose the information; and
  - (c) it is not undesirable to disclose the information; and
  - (d) the information is reasonably necessary for the purpose referred to in subclause (1).

- (2) Repeal schedule 7, part C, subpart 1, clause 36.
- (3) Subsection (2) is repealed on 1 April 2027.

Section 231(3): amended, on 31 March 2025, by section 262(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

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

- (1) In schedule 8, part B, clause 2(2)(a), replace “section 25A” with “section 26B”.

- (2) Replace schedule 8, part B, clause 2(3)(c)(i) with:

- (i) a schedular payment:

*Amendments to Child Support Act 1991*

**233 Amendments to Child Support Act 1991**

Sections 234 to 244 amend the Child Support Act 1991.

**234 Section 40AA amended (Interpretation for purposes of sections 40 to 45)**

In section 40AA, definition of **election period**,—

- (a) replace paragraph (b) with:
- (b) if notice of the election is given under section 40(1) during the child support year, the period in the child support year that starts on the first day of the month in which the notice is given and ends on the last day of the child support year; and
- (b) replace paragraph (c) (as inserted by the Child Support Amendment Act 2021) with:
- (c) if notice of the election is given during or after the child support year under section 40(8), the period that—
- (i) starts on the later of the first day of that child support year and the first day of the month in which the formula assessment begins; and
- (ii) ends on the last day of that child support year

**235 Section 40 amended (Estimated income)**

- (1) After section 40(4)(d), insert:
- (da) notice of the election is given after the child support year to which it relates, and the person has made an earlier election for that child support year; or
- (2) In section 40(8) (as inserted by the Child Support Amendment Act 2021), replace “after the end of” with “during or after”.
- (3) In section 40(9) (as inserted by the Child Support Amendment Act 2021), delete “the end of”.

**236 Section 44 amended (End-of-year reconciliation)**

In section 44(3D) (as inserted by the Child Support Amendment Act 2021), definition of **reconciliation period**, after paragraph (a)(i), insert:

- (ia) if the notice of the election is given during or after the child support year under section 40(8), the later of the first day of the child support year and the first day of the month in which the formula assessment begins; or

**237 Section 81A replaced (Amendments of assessments arising from living circumstances existing at time initial assessment made)**

Replace section 81A with:

**81A Amendments of assessments arising from living circumstances existing at time when assessment begins**

- (1) This section applies if—
  - (a) the Commissioner made an assessment on the basis that certain living circumstances existed at the time when the assessment begins; and
  - (b) the recipient of the assessment advises the Commissioner—
    - (i) that those circumstances did not exist at that time; and
    - (ii) of the relevant living circumstances that did exist at that time; and
  - (c) section 82 does not apply.
- (2) The Commissioner may backdate any amendment made under section 87 to the time when the assessment begins if the recipient of the assessment advises the Commissioner within the period of 28 days beginning with the date of the notice of assessment.
- (3) The Commissioner may also backdate any amendment made under section 87 to the time when the assessment begins if the recipient of the assessment—
  - (a) is a liable parent, and the backdating has the effect of increasing the amount of the parent’s child support liability;
  - (b) is a receiving carer, and the backdating has the effect of decreasing the amount of child support payable in respect of that carer.
- (4) However, the Commissioner may only backdate any amendment made under section 87 to the time when the assessment begins if—
  - (a) the recipient has provided to the Commissioner such supporting documentation as the Commissioner requires; and
  - (b) the Commissioner is satisfied that—
    - (i) the assessment was made on the basis that certain living circumstances existed at the time when the assessment begins that did not in fact exist at that time; and
    - (ii) the relevant living circumstances advised by the recipient did exist at that time.
- (5) Otherwise, an amendment of the assessment under section 87 is effective only from the date on which the recipient advises the Commissioner.

**238 Section 87A amended (Four-year time bar for amendment of certain assessments)**

- (1) In section 87A(1)(a), replace “in which the assessment was given” with “to which the assessment relates”.

- (2) In section 87A(3)(c), after “paid”, insert “, or is liable to pay,”.
- (3) In section 87A(3)(f), replace “notification).” with “notification); or”.
- (4) After section 87A(3)(f), insert:
  - (g) the Commissioner has made a determination under Part 6A in relation to an application under section 96B to which the 4-month time limit in section 96BA applies.

**239 Section 88 amended (Notice of assessment of formula assessment of child support)**

In section 88(3A), replace “was made” with “begins”.

**240 Section 89H amended (Applications for exemptions under this subpart)**

Replace section 89H(1)(ca) with:

- (ca) in the case of an application for an exemption under section 89CA, include evidence, as reasonably required by the Commissioner, to satisfy the Commissioner that, during the period to which the application relates, the applicant—
  - (i) has a long-term period of illness; and
  - (ii) is unable to engage in paid work as a result of the long-term period of illness; and

**241 Section 152B amended (Offsetting child support payments)**

In section 152B(1), after “assessment”, insert “or a voluntary agreement”.

**242 Section 180D amended (Sections 180B and 180C to cover child support penalties)**

- (1) Repeal section 180D(a) and (b).
- (2) Before section 180D(c), insert:
  - (ba) a penalty (as defined in section 135) imposed in relation to child support:
  - (bb) a pre-2021 penalty (as defined in section 135) imposed in relation to child support:

**243 Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)**

- (1) In Schedule 1, Part 4, clause 13, repeal the definition of **old Act**.
- (2) Repeal Schedule 1, Part 4, clause 14.
- (3) In Schedule 1, Part 4, after clause 16, insert:

**16A Amendment to section 44 (End-of-year reconciliation)**

- (1) The amendment to section 44 made by section 16 of the 2021 Amendment Act applies only in relation to child support in respect of child support years ending after commencement of section 16 of the 2021 Amendment Act.
- (2) The old section 44 continues to apply in relation to child support in respect of child support years ending before commencement of section 16 of the 2021 Amendment Act.
- (4) In Schedule 1,—
  - (a) insert the Part set out in Schedule 2 of this Act as the last Part; and
  - (b) make all necessary consequential amendments.

**244 Schedule 3 amended (Expenditure on children)**

In Schedule 3, table, heading above the fifth to seventh columns, delete “, or the oldest 3,”.

*Amendments to KiwiSaver Act 2006***245 Amendments to KiwiSaver Act 2006**

Sections 246 to 263 amend the KiwiSaver Act 2006.

**246 Section 4 amended (Interpretation)**

- (1) This section amends section 4(1).
- (2) Insert, in appropriate alphabetical order:

**assessment** has the same meaning as in section 3(1) of the Tax Administration Act 1994
- (3) In the definition of **employer contribution**, after paragraph (b), insert:

(bb) if the employer knows that the employee has opted out, does not include an amount that would otherwise be an employer contribution; and

**247 Section 59A amended (When this subpart applies)**

After section 59A(b), insert:

- (bb) the rule in section 33 allowing opt-in has been applied prior to 1 July 2019 to a person who, at the time, did not meet the requirements of section 33(a):

**248 Section 59B amended (Initial back-dated validation)**

- (1) In section 59B(2), words before the paragraphs, replace “the automatic enrolment rules,” with “the automatic enrolment rules, the age requirement for the application of the opt-in rule in section 33,”.
- (2) In section 59B(2)(b), words before the subparagraphs, replace “section 59A(b)(i),” with “section 59A(b)(i), (bb),”.

**249 Section 59C amended (Confirmed back-dated validation)**

- (1) In section 59C(1)(a), replace “section 59A(b)(i),” with “section 59A(b)(i), or the opt-in rule in section 33 was applied to a person because of the mistake described in section 59A(bb),”.
- (2) Repeal section 59C(1)(a)(i).
- (3) In section 59C(2)(b), replace “section 59A(b)(i).” with “section 59A(b)(i); and”, and insert:
  - (c) in relation to whom no mistake described in section 59A(bb) was made.

**250 Section 59D amended (No confirmed back-dated validation)**

In section 59D(1)(a), replace “section 59A(b)(i),” with “section 59A(b)(i), or the opt-in rule in section 33 was applied to a person because of the mistake described in section 59A(bb),”.

**251 Section 73 amended (Certain unremitted deductions and employer contributions entered in and paid out of holding account)**

After section 73(1), insert:

- (1B) For the purposes of subsection (1)(a)(ii), an amount of an employer contribution for an employee includes a contribution payable on or before 31 March 2020 that remains unpaid on 1 April 2020 in relation to which the relevant information referred to in subsection (1)(b) and (c) has been provided to the Commissioner.

**252 Section 78 amended (Treatment of certain unremitted deductions and employer contributions in holding account)**

After section 78(3)(a), insert:

- (ab) for an employer contribution referred to in section 73(1B), on 1 April 2020; or

**253 Section 80 amended (Refund by Commissioner of amounts paid in excess of required amount of deduction or if employee opts out)**

After section 80(2), insert:

- (3) This section is subject to section 91B.

**254 Section 81 amended (Refund by provider of amounts paid in excess of required amount of contribution or if member opts out)**

After section 81(3), insert:

- (4) This section is subject to section 91B.

**255 Section 81B amended (Residual refunds)**

In section 81B, insert as subsection (2):

- (2) This section is subject to section 91B.

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

Replace section 83(3)(c) with:

- (c) as if the words “more than \$100” in the words before the subparagraphs in section 4(3)(a) of the Unclaimed Money Act 1971 were replaced with the words “1 cent or more”; and

**257 Section 85 amended (Time when deductions and employer contributions treated as received for interest purposes)**

- (1) Repeal section 85(1).
- (2) In section 85(2),—
- (a) replace “The amount is treated” with “An amount referred to in section 73(1) is treated”;
- (b) after subsection (2)(b), insert:
- (bb) for an employer contribution referred to in section 73(1B), on 1 April 2020; or

**258 New cross-heading and section 91B inserted**

After section 91, insert:

*Time bar for refunding contributions*

**91B Time bar for refunding contributions**

- (1) A provider must not refund an amount of contribution paid to the provider by the Commissioner in respect of a member of that provider’s KiwiSaver scheme that is in excess of the amount that is required to be paid to the provider under the KiwiSaver scheme and this Act if—
- (a) the amount is—
- (i) an amount that was deducted from the member’s salary or wages; or
- (ii) an amount of employer contribution; and
- (b) the amount has arisen on an amended assessment; and
- (c) the 4-year period under section 108AB of the Tax Administration Act 1994 for amendment of an assessment has ended; and
- (d) the Commissioner has not requested the provider to refund the amount to the Commissioner.
- (2) The Commissioner must not refund an amount of contribution that is in excess of the amount that this Act requires to be deducted or paid if—
- (a) the amount is—
- (i) an amount that was deducted from a member’s salary or wages; or
- (ii) an amount of employer contribution; and

- (b) the amount has arisen on an amended assessment; and
  - (c) the 4-year period under section 108AB of the Tax Administration Act 1994 for amendment of an assessment has ended.
- (3) For the purposes of this section, the provision by a person of employment income information for an amount of a contribution for a payday is treated as the making of an assessment of the amount of the contribution by the person.

**259 Section 100 amended (Refunds of employer contribution by Commissioner if employee opts out)**

In section 100, insert as subsection (2):

- (2) This section is subject to section 91B.

**260 Section 101 amended (Refunds of employer contribution by provider)**

After section 101(1B), insert:

- (1C) This section is subject to section 91B.

**261 Section 101AA amended (What Commissioner must do with employer contribution refunded by provider)**

After section 101AA(2), insert:

- (3) This section is subject to section 91B.

**262 Section 114 amended (Refunds if employee loses, etc, savings suspension notice)**

After section 114(3), insert:

- (4) This section is subject to section 91B.

**263 Schedule 1 amended (KiwiSaver scheme rules)**

In schedule 1, clause 4(6), in the definition of **grandparented member**, paragraph (b), replace “them.” with “them; and”, and insert:

- (c) does not include a person who was of New Zealand superannuation qualification age before 1 July 2019.

*Amendments to Student Loan Scheme Act 2011*

**264 Amendments to Student Loan Scheme Act 2011**

Sections 265 and 266 amend the Student Loan Scheme Act 2011.

**265 Section 211 amended (Meaning of notify)**

In section 211(1),—

- (a) paragraph (a), replace “post, or fax; or” with “post; or”;
- (b) paragraph (d), replace “electronic means (except a fax), if” with “electronic means, if”.

**266 Section 212 amended (Meaning of notify a person in writing)**

In section 212(1),—

- (a) paragraph (a), replace “post, or fax; or” with “post; or”:
- (b) paragraph (b), replace “electronic means (except a fax), if” with “electronic means, if”.

***Amendments to Unclaimed Money Act 1971*****267 Amendments to Unclaimed Money Act 1971**

- (1) This section amends the Unclaimed Money Act 1971.
- (2) In section 8(5)(c), words before the subparagraphs, replace “the date on which this Act receives the Royal assent” with “30 March 2021”.
- (3) In section 8(5)(c)(ii), replace “the date on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 receives the Royal assent” with “30 March 2021”.

***Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020*****268 Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020**

- (1) This section amends the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020.
- (2) Repeal the following provisions:
  - (a) section 2(37):
  - (b) section 235:
  - (c) section 239(3).

***Amendment to Child Support Amendment Act 2021*****269 Amendment to Child Support Amendment Act 2021**

- (1) This section amends the Child Support Amendment Act 2021.
- (2) In section 15(2), new section 40(3)(c)(ii), replace “taxable income” with “income”.

***Revocation of Co-operative Dairy Companies Income Tax Regulations 1955*****270 Co-operative Dairy Companies Income Tax Regulations 1955 revoked**

Revoke the Co-operative Dairy Companies Income Tax Regulations 1955.

***Revocation of Cooperative Milk Marketing Companies Income Tax  
Regulations 1960***

**271 Cooperative Milk Marketing Companies Income Tax Regulations 1960  
revoked**

Revoke the Cooperative Milk Marketing Companies Income Tax Regulations 1960.

***Revocation of Cooperative Pig Marketing Companies Income Tax  
Regulations 1964***

**272 Cooperative Pig Marketing Companies Income Tax Regulations 1964  
revoked**

Revoke the Cooperative Pig Marketing Companies Income Tax Regulations 1964.

## Schedule 1

### New Schedule 15 inserted into Income Tax Act 2007

s 176

#### Schedule 15

##### Excepted residential land

s DH 5

1. Business premises, except if the business premises—
  - (a) are used or available for use in a business of supplying accommodation; and
  - (b) are not land described in clause 7.
2. Farmland, including 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.
3. A hospital, convalescent home, nursing home, or hospice.
4. A boarding establishment.
5. A hotel, motel, inn, hostel, or camping ground.
6. A rest home or retirement village.
7. For the relevant person (**person A**), land that has been used predominantly for a place configured as a residence or abode, including any appurtenances belonging to or enjoyed with the place, if that place is 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, the place is their main home.
8. Student accommodation.
9. For the relevant person, employee accommodation.
10. Māori excepted land.

## Schedule 2

### New Part 6 inserted into Schedule 1 of Child Support Act 1991

s 243(4)

#### Part 6

#### Provisions relating to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

##### 24 Interpretation in this Part

In this Part,—

**2022 Act** means the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

**commencement**, in relation to any provision of the 2022 Act, means the commencement of that provision

**old**, in relation to a provision, means the provision as if the amendments made to the provision by the Child Support Amendment Act 2021 and the 2022 Act had not been made.

##### 25 Amendment to section 44 (End-of-year reconciliation)

- (1) The amendment to section 44 made by section 236 of the 2022 Act applies only in relation to child support in respect of child support years ending after commencement of section 236 of the 2022 Act.
- (2) The old section 44 continues to apply in relation to child support in respect of child support years ending before commencement of section 236 of the 2022 Act.

##### 26 Replacement of section 81A (Amendments of assessments arising from living circumstances existing at time when assessment begins)

Section 81A (as replaced by section 237 of the 2022 Act) applies on and after commencement, including if the assessment begins, was made, or both, before commencement of section 237 of the 2022 Act.

##### 27 Amendments to section 87A (Four-year time bar for amendment of certain assessments)

The amendments to section 87A made by section 238 of the 2022 Act apply in respect of all child support years, whether ending before commencement or on or after commencement of section 238 of the 2022 Act.

##### 28 Amendment to section 152B (Offsetting child support payments)

The amendment to section 152B made by section 241 of the 2022 Act applies to all child support years, regardless of the period in which the liability to pay

financial support arose or when an amount of financial support became due and payable.

## Notes

### **1** *General*

This is a consolidation of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9): section 262

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11): sections 182, 183

Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5): sections 215–220