

House of Representatives

Amendment Paper

Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill

Proposed amendments

Hon Simon Watts, in Committee, to move the following amendments:

Clause 2

In *clause 2(13)*, replace “**Sections 92, 129B(2), 134(1C) and (4), 134B(2) and (3), and 140(2)**” (page 16, lines 29 and 30) with “**Sections 92 and 129B(1B) and (3)**”.

In *clause 2(16)*, replace “**Section 174** comes” (page 17, line 2) with “**Sections 129B(2) and (4), 134(1C) and (4), 134B(2) and (3), 140(2), and 174** come”.

Replace *clause 2(23)* (page 17, lines 15 to 18) with:

- (23) **Sections 10, 14, 21BA, 23, 29, 57B, 59, 60, 79, 97, 105(4B), (4C), (18), (31), and (31B), 113(1A), (1), and (1B), 115(2), 117(7C), 133B, 155(1B), (4), and (4B), 159(2), 166, 167, 169(2), 170(3), 181, 182(1), (2)(a) and (b), and (3), 183(1), 202C, and 202D** come into force on 1 April 2024.

In *clause 2(24C)*, replace “**Section 21B** comes” (page 17, line 25) with “**Sections 8B, 21B, 29B, 105(8B) and (30E), 155(1C), (6), (7), (8), (9), and (10), 155B, 157(8), 170(1B), 176B, 185B, 203C, and 203D** come”.

In *clause 2(24D)*, replace “**and 134C**” (page 17, line 26) with “**117(5C), (6D), and (8DB), 118BA, 134C, 140BA, 153(5), and 200E to 200H**”.

After *clause 2(24D)* (page 17, after line 26), insert:

- (24E) **Section 200I** comes into force on 31 March 2025.

In *clause 2(25)*, after “**and (36C),**” (page 17, line 31), insert “**112C, 115(2B),**”.

Clause 6

Replace *clause 6(4B)* (page 19, lines 32 to 34) with:

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- (4B) In section CB 15E(3), in the words before the formula,—
- (a) delete “CB 10(2) or”;
 - (b) replace “reduced by the amount calculated” with “exempt income to the extent given”.

New clause 8B

After *clause 8* (page 20, after line 27), insert:

8B New sections CC 9B and CC 9C inserted

After section CC 9, insert:

CC 9B Resale royalties

When this section applies

- (1) This section applies when—
- (a) a person receives a resale royalty in respect of the resale of an original visual artwork under section 18 of the Resale Right for Visual Artists Act 2023; and
 - (b) the resale royalty is income of the person under section CB 1 (Amounts derived from business).

Income

- (2) The amount of the resale royalty retained by the collection agency under section 20 of the Resale Right for Visual Artists Act 2023 is treated as income of the person.

Defined in this Act: collection agency, income, resale royalty

CC 9C Amount of resale royalty retained by collection agency

When this section applies

- (1) This section applies when the collection agency receives an amount of a resale royalty under section 17 of the Resale Right for Visual Artists Act 2023.

Income

- (2) The amount is not income of the collection agency except to the extent of the amount that the collection agency is entitled to retain under section 20 of that Act.

Defined in this Act: collection agency, income, resale royalty

New clause 21BA

After *clause 21* (page 27, after line 24), insert:

21BA New section CW 39B inserted (Auckland Future Fund)

- (1) After section CW 39, insert:

CW 39B Auckland Future Fund

Exempt income

- (1) An amount of income derived by a trustee of the Auckland Future Fund is exempt income.

Exclusion: certain amounts from commercial undertakings

- (2) **Subsection (1)** does not apply to an amount of income that—
- (a) is derived by a trustee of the Auckland Future Fund from—
- (i) a council-controlled organisation of Auckland Council; or
- (ii) an organisation linked by ownership or control to Auckland Council that is a port company, a subsidiary of a port company, or an energy company, and that would be a council-controlled organisation of Auckland Council in the absence of section 6(4) of the Local Government Act 2002; and
- (b) is not—
- (i) rates; or
- (ii) a dividend.

Meaning of Auckland Future Fund

- (3) In this section, **Auckland Future Fund**—
- (a) means the fund established by Auckland Council as part of its Long-term plan 2024–2034; and
- (b) includes—
- (i) any funds, assets, or both that the Council adds to the fund; and
- (ii) capital and income retained in the fund.

Meaning of Auckland Council

- (4) In this section, **Auckland Council** means the territorial authority established by section 6(1) of the Local Government (Auckland Council) Act 2009 as the Auckland Council.

Defined in this Act: amount, Auckland Council, Auckland Future Fund, council-controlled organisation, dividend, exempt income, income, trustee

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

Clause 29

Before *clause 29(1)* (page 29, before line 17), insert:

- (1A) After section DB 2(1)(a), insert:
- (ab) a flat-rate credit, as defined in section 2(1) of the Goods and Services Tax Act 1985:

In *clause 29(3)*, replace “**Subsection (1)** applies” (page 29, line 24) with “**Subsections (1A) and (1)** apply”.

New clause 29B

After *clause 29* (page 29, after line 24), insert:

29B New cross-heading and section DB 69A inserted

After section DB 68, insert:

Deemed payments for services

DB 69A Amount of resale royalty retained by collection agency

When this section applies

- (1) This section applies to a person—
- (a) who receives a resale royalty under section 18 of the Resale Right for Visual Artists Act 2023; and
 - (b) to whom **section CC 9B** (Resale royalties) applies.

Deduction

- (2) The person is allowed a deduction for the amount of the resale royalty retained by the collection agency under section 20 of the Resale Right for Visual Artists Act 2023.

Link with subpart DA

- (3) This section supplements the general permission.

Defined in this Act: amount, collection agency, deduction, general permission, resale royalty, supplement

Clause 39

In *clause 39*, new *section EX 46(9)(b)*, replace “is not readily available at the start of the income year” (page 33, lines 7 and 8) with “at the start of the income year is not readily available”.

Clause 53B: new cross-heading

In *clause 53B*, after new *section FP 16* (page 79, after line 10), insert:

Optional timing rules

Clause 57B

After *clause 57B(2)* (page 90, after line 6), insert:

- (2B) In section HC 8B, list of defined terms, insert “income” and delete “trustee income”.

Clause 57D

After *clause 57D(1)* (page 90, after line 16), insert:

(1B) In section HC 26, list of defined terms, insert “close company”.

Clause 77

After *clause 77* (page 100, after line 36), insert, as *clause 77(2)*:

(2) After section HR 10(5), insert:

Relationship with subject matter

(6) This section does not give rise to a supply of goods or services under the Goods and Services Tax Act 1985.

Clause 78

In *clause 78*, new section HR 10B(1), replace “**section HR 9(1)(b)**” (page 101, lines 7 and 8) with “**section HR 9(1)**”.

In *clause 78*, in the heading to new section HR 10B(2B), after “*originators*” (page 101, line 31), insert “*for section HR 9*”.

In *clause 78*, after new section HR 10B(6) (page 102, after line 12), insert:

Relationship with subject matter

(7) **Subsections (2), (2B), and (3)** do not give rise to a supply of goods or services under the Goods and Services Tax Act 1985.

Clause 81

After *clause 81* (page 102, after line 36), insert, as *clause 81(2)*:

(2) After section HZ 10(3), insert:

Relationship with subject matter

(4) Subsection (2) does not give rise to a supply of goods or services under the Goods and Services Tax Act 1985.

Clause 91D

In *clause 91D*, new section MH 4(2), replace “Subject to **subsection (5)**, when” (page 106, line 27) with “When”.

In *clause 91D*, new section MH 4(5),—

- (a) delete “that includes the person’s tax credit quarter” (page 107, line 11):
- (b) replace “that quarter” (page 107, line 13) with “the tax credit quarter”:
- (c) after “**subsection (3)**” (page 107, line 16), insert “**or (4)**”.

Clause 104

In *clause 104*, new section RI 3, list of defined terms (page 114, lines 35 and 36), insert “foreign superannuation withdrawal”.

Clause 105

In *clause 105(2C)*, after “**subpart FP**” (page 115, line 36), insert “(Tax relief for emergencies)”.

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After *clause 105(4)* (page 116, after line 30), insert:

(4B) Insert, in appropriate alphabetical order:

Auckland Council is defined in **section CW 39B(4)** (Auckland Future Fund) for the purposes of that section

(4C) Insert, in appropriate alphabetical order:

Auckland Future Fund is defined in **section CW 39B(3)** (Auckland Future Fund) for the purposes of that section

After *clause 105(8)* (page 116, after line 39), insert:

(8B) Insert, in appropriate alphabetical order:

collection agency has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

In *clause 105(17)*, after “**section HM 12**” (page 118, line 19), insert “**(1B)**”.

After *clause 105(30D)* (page 120, after line 13), insert:

(30E) Insert, in appropriate alphabetical order:

resale royalty has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

In *clause 105(40)*, replace “(18)” (page 122, line 35) with “(4B), (4C), (18),”.

New clause 112C

After *clause 112B* (page 127, after line 26), insert:

112C Section YZ 5 repealed (New Zealand Memorial Museum Trust — Le Quesnoy: sunset)

Repeal section YZ 5.

Clause 113

In *clause 113(1A)*, after “clause 6B,” (page 127, line 29), insert “paragraph (b),”.

Clause 115

After *clause 115(2)* (page 128, after line 24), insert:

(2B) Insert, in appropriate alphabetical order, “New Zealand Memorial Museum Trust — Le Quesnoy”.

Clause 117

After *clause 117(5B)* (page 130, after line 37), insert:

(5C) In the definition of **disputable decision**, after paragraph (b)(v), insert:

(vba) to make, or to decline to make, an entitlement under the final-year fees free scheme under **section 7AAAA**; or

After *clause 117(6C)* (page 131, after line 23), insert:

(6D) Insert, in appropriate alphabetical order:

final-year fees free scheme means the scheme established and administered by the Crown to provide financial support to persons who have completed their first qualification or programme

After *clause 117(7B)* (page 131, after line 29), insert:

(7C) Insert, in appropriate alphabetical order:

nil value distribution is defined in **section 59BA(7)** for the purposes of that section

nil value settlement is defined in **section 59BA(7)** for the purposes of that section

non-cash distribution is defined in **section 59BA(7)** for the purposes of that section

non-cash settlement is defined in **section 59BA(7)** for the purposes of that section

After *clause 117(8D)* (page 132, after line 23), insert:

(8DB) In the definition of **tax**, after paragraph (ce), insert:

(cf) for the purposes of sections 6 to 6B, 120C, 156 to 165, 174AA, 177B, 177CA, and 183C, includes an amount payable in relation to an entitlement under the final-year fees free scheme:

New clause 118BA

After *clause 118* (page 133, after line 25), insert:

118BA New section 7AAAA inserted (Administration of final-year fees free scheme)

After section 7, insert:

7AAAA Administration of final-year fees free scheme

- (1) It is a function of the Commissioner to administer the final-year fees free scheme (the **scheme**) on behalf of the Crown.
- (2) If a person who receives an entitlement under the scheme from the Commissioner does not qualify for the entitlement under the eligibility requirements of the scheme, the person must immediately repay to the Commissioner the total amount of the entitlement.
- (3) The Commissioner must publish, on an internet site administered by the Commissioner, the eligibility requirements referred to in **subsection (2)**.

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Clause 129B

In the heading to *clause 129B*, after “**inserted**” (page 137, line 22), insert “**and replaced**”.

After *clause 129B(1)* (page 137, after line 25), insert:

(1B) Before section 34, insert:

33G Research and development tax credits: correction of supplementary return

(1) This section applies when—

- (a) the Commissioner notifies a person (**person A**) that a supplementary return has been filed in the name of an incorrect person (**person B**); and
- (b) person A applies to the Commissioner to amend the supplementary return to change the name in the return from person B to person A; and
- (c) the application is made no later than 30 days after person A is notified under **paragraph (a)**; and
- (d) both person A and person B are in the same wholly-owned group of companies; and
- (e) the Commissioner approves person A’s application.

(2) For the purposes of section 33E, person A, and not person B, is treated as having filed the supplementary return, as amended, by the due date.

In *clause 129B(2)*, replace “Before section 34, insert” (page 137, line 26) with “Replace section 33G, as inserted by **subsection (1B)**, with”.

After *clause 129B(2)* (page 137, after line 36), insert:

- (3) **Subsection (1B)** applies for the 2019–20 income year.
- (4) **Subsection (2)** applies for the 2020–21 and later income years.

New clause 133B

After *clause 133* (page 139, after line 17), insert:

133B Section 59BA amended (Annual return for trusts)

(1) Replace section 59BA(2)(b) with:

- (b) the amount, and nature, of each settlement, other than a nil value settlement, that is made on the trust in the income year:

(2) Replace section 59BA(2)(d) with:

- (d) the amount, and nature, of each distribution, other than a nil value distribution, that is made by the trustee in the income year:

- (3) After section 59BA(2), insert:
- (2B) **Subsection (2)(b)** does not apply to a non-cash settlement made by a settlor on the trust in the income year if the total market value of all non-cash settlements made by that settlor on the trust in that year is less than \$100,000.
- (2C) **Subsection (2)(d)** does not apply to a non-cash distribution made to a beneficiary by the trustee in the income year if the total market value of all non-cash distributions made to that beneficiary by the trustee in that year is less than \$100,000.
- (4) After section 59BA(6), insert:
- (7) In this section,—
- nil value distribution** is a non-cash distribution that is—
- (a) the provision of minor services to the beneficiary that are incidental to the activities of the trust:
- (b) the making available of trust property for a beneficiary if the trust incurs no costs in making that property available to the beneficiary
- nil value settlement** is a non-cash settlement made on a trust by a settlor that is incapable of being distributed by the trustee as a distribution to a beneficiary (for example, a person may provide services to a trust that are consumed by the trust and cannot be distributed to a beneficiary, or a person may choose not to charge interest on a loan to the trust, which is a transfer of value to the trust but is incapable of being distributed by the trustee)
- non-cash distribution** is a distribution to the extent to which it is not a distribution of money
- non-cash settlement** is a settlement to the extent to which it is not a settlement of money.
- (5) **Subsections (1), (2), (3), and (4)** apply for the 2024–25 and later income years.

Clause 134

In *clause 134(4)*, replace “2019–20” (page 139, line 34) with “2020–21”.

Clause 134B

In *clause 134B(3)*, replace “2019–20” (page 140, line 11) with “2020–21”.

Clause 134C

In the heading to *clause 134C*, replace “**top-up return**” (page 140, line 12) with “**top-up tax return**”.

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New clause 140BA

After *clause 140* (page 141, after line 37), insert:

140BA Section 120C amended (Definitions)

- (1) In section 120C(1), definition of **date interest starts**, after paragraph (a)(iii), insert:
 - (iv) for a person who receives an entitlement under the final-year fees free scheme that exceeds the amount the person is entitled to, the day after the date on which the entitlement was paid to the person; and
- (2) In section 120C(2), words before the paragraphs, replace “where” with “when”.
- (3) After section 120C(2)(b), insert:
 - (c) an entitlement paid to a person under the final-year fees free scheme exceeds the amount the person is entitled to, the excess is **unpaid tax**.

New clause 150B

After *clause 150* (page 147, after line 11), insert:

150B Section 226 amended (Power to extend time for doing anything under Act)

- (1) Replace section 226(1) and (2) with:
 - (1) If anything is required by or under this Act, the Income Tax Act 2007, or the Goods and Services Tax Act 1985 to be done by a taxpayer by a specified date or at or within a fixed time, the Governor-General, by Order in Council, may appoint a later date or further time for doing that thing, regardless of whether the specified date or fixed time has elapsed.
 - (2) Anything done at or within the time or by the date prescribed by an Order in Council under **subsection (1)** shall be as valid as if it had been done at or within the time fixed under this Act, the Income Tax Act 2007, or the Goods and Services Tax Act 1985.

Clause 153

In *clause 153(1)*, *new clause 23C(1)*, replace “This section” (page 153, line 3), with “This clause”.

After *clause 153(4)* (page 153, after line 27), insert:

- (5) In schedule 7, part C, subpart 1, after clause 39C, insert:

39D Tertiary Education Commission for final-year fees free scheme

Section 18 does not prevent the Commissioner communicating to an officer, employee, or agent of the Tertiary Education Commission any information necessary for the purpose of administering the final-year fees free scheme.

- (6) In schedule 7, part C, subpart 2, clause 46B(1)(a), replace “early childhood education and care service” with “licensed early childhood service”.

Clause 155

After *clause 155(1)* (page 153, after line 33), insert:

- (1B) Insert, in appropriate alphabetical order:

Auckland Future Fund has the same meaning as in section YA 1 of the Income Tax Act 2007

- (1C) Insert, in appropriate alphabetical order:

collection agency has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

After *clause 155(4)* (page 154, after line 1), insert:

- (4B) In the definition of **local authority**, after paragraph (b)(ix), insert:

(x) the trustee of the Auckland Future Fund

After *clause 155(5)* (page 154, after line 4), insert:

- (6) Insert, in appropriate alphabetical order:

original visual artwork has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

- (7) Insert, in appropriate alphabetical order:

qualifying resale has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

- (8) Insert, in appropriate alphabetical order:

resale royalty has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

- (9) Insert, in appropriate alphabetical order:

right holder has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

- (10) In the definition of **tax payable**, after paragraph (c), insert:

(d) an amount calculated under **section 26B**

- (11) **Subsections (1B) and (4B)** apply for taxable periods starting on or after 1 April 2024.

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New clause 155B

After *clause 155* (page 154, after line 4), insert:

155B Section 3 amended (Meaning of term financial services)

After section 3(4)(b), insert:

- (c) services provided by the collection agency under section 24 of the Resale Right for Visual Artists Act 2023.

Clause 156

In *clause 156(2)*, replace “subsection (3B)” (page 154, line 10) with “section 3A(3B)”.

Clause 157

After *clause 157(7)* (page 155, after line 21), insert:

- (8) After section 5(28), insert:
- (29) The amount of a resale royalty retained by the collection agency under section 20 of the Resale Right for Visual Artists Act 2023 is treated as a fee paid by the right holder for the collection agency’s services.

Clause 170

After *clause 170(1)* (page 161, after line 12), insert:

- (1B) After section 20(3)(i), insert:
 - (ib) in the case of a registered person who receives a resale royalty during the taxable period for the resale of an original visual artwork under section 18 of the Resale Right for Visual Artists Act 2023, the tax fraction of the amount of the resale royalty retained by the collection agency under section 20 of that Act; and

In *clause 170(2)*, replace “section 20(3)(i)” (page 161, line 13) with “**section 20(3)(ib)**”.

New clause 176B

After *clause 176* (page 163, after line 11), insert:

176B New section 26B inserted (Resale royalties)

After section 26A, insert:

26B Resale royalties

- (1) This section applies to a registered person who—

- (a) receives a resale royalty under section 18 of the Resale Right for Visual Artists Act 2023 in relation to or in respect of their taxable activity; and
 - (b) was notified by the collection agency under regulation 10 of the Resale Right for Visual Artists Regulations 2024 that the resale of the original visual artwork which gave rise to the resale royalty was not a supply that was charged with tax under section 8.
- (2) Unless **subsection (3)** applies, the registered person must add to their output tax under section 20 for the taxable period in which they receive the resale royalty an amount equal to the tax fraction of the amount of the resale royalty, including any percentage of the resale royalty retained by the collection agency under section 20 of the Resale Right for Visual Artists Act 2023.
- (3) If the resale of the original visual artwork was zero-rated under section 11, the resale royalty paid to the right holder by the collection agency must also be zero-rated.

New clause 185B

After *clause 185* (page 165, after line 19), insert:

185B Schedule amended (Non-taxable legislative charges)

In the schedule, insert:

1 General

This schedule sets out the charges, including fees and levies, that, under section 5(6ED)(a), are not consideration for a supply of goods and services under section 5(6EC).

2 Resale royalties

- (1) A resale royalty paid to the collection agency under section 17 of the Resale Right for Visual Artists Act 2023.
- (2) A resale royalty paid to the right holder in respect of the resale of an original visual artwork under section 18 of the Resale Right for Visual Artists Act 2023.
- (3) *See* **section 26B**, which requires a registered person who receives a resale royalty in relation to or in respect of their taxable activity to pay tax equal to the tax fraction of the resale royalty if they are notified by the collection agency that the sale of the artwork that gave rise to the resale royalty was not charged with tax under section 8.

New cross-headings and clauses 200D to 200I

After *clause 200C* (page 169, after line 22), insert:

Amendments to Student Loan Scheme Act 2011

200D Amendments to Student Loan Scheme Act 2011

Sections 200E to 200H amend the Student Loan Scheme Act 2011.

200E Section 4 amended (Interpretation)

- (1) This section amends section 4(1).
- (2) Insert, in appropriate alphabetical order:

final-year fees free scheme has the same meaning as in section 3(1) of the Tax Administration Act 1994

200F Section 119 amended (Meaning of excess repayment)

After section 119(2)(d), insert:

- (e) disregard an entitlement under the final-year fees free scheme.

200G Section 194 amended (Order in which certain deductions and payments offset against borrower’s consolidated loan balance)

After section 194(2)(b), insert:

- (c) an entitlement under the final-year fees free scheme.

200H New section 195B inserted (Date on which final-year fees free entitlement treated as being credited)

After section 195, insert:

195B Date on which final-year fees free entitlement treated as being credited

An entitlement under the final-year fees free scheme is treated as being credited against a borrower’s consolidated loan balance on the date the borrower is awarded their qualification.

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

200I Amendment to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

- (1) This section amends the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022.
- (2) In section 231(3), replace “1 April 2025” with “1 April 2027”.

New cross-heading and clauses 203B to 203D

After clause 203 (page 170, after line 19), insert:

Amendments to Resale Right for Visual Artists Regulations 2024

203B Amendments to Resale Right for Visual Artists Regulations 2024

Sections 203C and 203D amend the Resale Right for Visual Artists Regulations 2024.

203C Regulation 6 amended (Additional information about qualifying resales to be provided to collection agency)

After regulation 6(b), insert:

- (c) whether or not the qualifying resale was a taxable supply;
- (d) the rate of tax of the supply, if applicable.

203D Regulation 10 amended (How resale royalty payments must be made to right holders)

After regulation 10(3), insert:

- (4) The collection agency must, at the time it pays the royalty, notify the right holder of—
 - (a) whether or not the qualifying resale was a taxable supply; and
 - (b) the rate of tax of the supply, if applicable.

Explanatory note

This Amendment Paper (the **AP**) amends the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill (the **Bill**).

Administration of final-year fees free scheme

The AP introduces provisions to allow Inland Revenue to administer the final-year fees free scheme from 1 January 2025. The objectives of the final-year fees free scheme are to incentivise learners, particularly disadvantaged learners, to progress through and finish their programme of study, to reward learners who complete their programme of study, and to reduce the overall cost of study. *New clause 118BA* inserts *new section 7AAAA* into the Tax Administration Act 1994 (the **TAA**), which allows the Commissioner to administer the scheme and requires the Commissioner to publish the eligibility requirements on the internet. *New clause 117(5C)* amends the definition of “disputable decision” to exclude the decision to make, or decline to make, an entitlement under the final-year fees free scheme. *New clause 117(8DB)* amends the definition of “tax” to include an amount payable in relation to an entitlement made under the scheme for the purposes of various provisions. This enables the Commissioner to use existing debt management and care and management powers to administer the entitlement. *New clause 140BA* allows the Commissioner to impose use of money interest when an amount is paid to a learner in error. *New clause 153(5)*

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allows the Commissioner to share information necessary for the purposes of administering the scheme with the Tertiary Education Commission without breaching tax secrecy laws. *New clauses 200E to 200H* amend the Student Loan Scheme Act 2011 to—

- credit the final-year fees free entitlement towards a loan balance with effect from the date of the qualification being awarded;
- ensure the final-year fees free entitlement does not satisfy the learner’s repayment obligation that applies to them during the year;
- ensure the final-year fees free entitlement cannot be offset against assessments or late payment interest; and
- ensure the final-year fees free entitlement is not treated as an excess repayment.

New Zealand Memorial Museum Trust — Le Quesnoy

The AP proposes permanently granting the New Zealand Memorial Museum Trust — Le Quesnoy (the **Trust**) overseas donee status from 1 April 2025. *New clause 115(2B)* inserts the Trust into schedule 32 of the Income Tax Act 2007 (the **ITA**), and *new clause 112C* repeals section YZ 5 of that Act, which granted the Trust temporary overseas donee status from 1 April 2018 to 31 March 2025. Taxpayers who donate to the Trust are eligible for tax benefits on the donations they make.

Artist resale royalty changes

The AP proposes to set the tax treatment for resale royalties paid under the Resale Right for Visual Artists Act 2023, with application from 1 December 2024. Under that Act, artists and right holders are entitled to a “resale royalty” on the resale of qualifying artwork. Resale royalties are paid by art vendors and art market professionals to a collection agency that is responsible for the collection and distribution of resale royalties. The collection agency retains 20% of the resale royalties it collects as payment for its services and pays the balance to eligible artists and right holders. *Clauses 8B, 29B, and 105(8B) and (30E)* amend the ITA to provide that—

- the collection agency’s income is the amount of each resale royalty it retains as payment for its services;
- if the resale royalty is derived from a business, the full amount of the resale royalty collected by the collection agency is income for eligible artists; and
- when artists and right holders are liable for income tax on the resale royalties they receive, they are eligible for a deduction of the 20% withheld by the collection agency.

Clauses 155(1C), (6), (7), (8), (9), and (10), 155B, 157(8), 170(1B), 176B, and 185B amend the Goods and Services Tax Act 1985 (the **GSTA**) to—

- ensure the collection agency is only liable for GST on the 20% it retains from the resale royalties it collects, which represents the collection agency’s payment for its services provided to artists and right holders;

- ensure GST-registered artists and right holders must account for GST on resale royalties that arise from the sale of qualifying artwork that is not a taxable supply for GST purposes, if this is notified to them by the collection agency;
- ensure GST-registered artists and right holders can deduct GST for the amount retained by the collection agency as payment for its services; and
- remove the resale royalties from the GST rules for legislative charges because the GST treatment of the resale royalties will be determined under specific rules.

Clauses 203C and 203D amend the Resale Right for Visual Artists Regulations 2024 to require—

- art vendors and art market professionals, as applicable, to notify the collection agency whether the sale of the art that gave rise to the royalty was a taxable supply for GST purposes and, if so, at what rate; and
- the collection agency to provide this information to eligible artists and right holders so they can determine whether to account for GST on resale royalties in their own GST returns.

Auckland Future Fund

New clause 21BA proposes to insert *new section CW 39B* into the ITA to exempt the trustee of the Auckland Future Fund from income tax from the 2024–25 income year. The exemption does not apply to income the trustee derives from certain commercial entities owned or controlled by Auckland Council, except for rates or dividends. *New clause 155(4B)* amends the definition of “local authority” in the GSTA to include the trustee of the Auckland Future Fund. The effect of this change is to deem the trustee of the Auckland Future Fund to have a taxable activity for goods and services tax purposes.

Trust disclosures

The AP proposes amending the disclosure requirements for domestic trusts to reduce compliance costs. *New clause 133B(1) and (2)* amends section 59BA(2) of the TAA to no longer require trustees to disclose nil value distributions and settlements. *New clause 133B(3)* inserts *new section 59BA(2B) and (2C)* to introduce a bright-line of \$100,000 per beneficiary or settlor for the disclosure of non-cash distributions or settlements. *New clauses 117(7C) and 133B(4)* provide definitions of the relevant terms.

Research and development tax incentive

The AP proposes remedial amendments to the research and development tax incentive. *New clause 129B(1B)* inserts a *new section 33G* into the TAA to allow the Commissioner to correct a supplementary return when it has been filed using an incorrect entity name. *New clause 129B(3)* ensures the new section applies for the 2019–20 income year, when pre-approval was not required to claim research and development

tax credits. *New clause 129B(4)* and amendments to *clauses 129B(2), 134(4), and 134B(3)* ensure existing provisions in the Bill apply for the correct income years.

No supply of goods or services in certain circumstances

New clauses 77(2) and 81(2) and an amendment to *clause 78* insert *new sections HR 10(6), HR 10B(7), and HZ 10(4)* into the ITA to ensure a supply of goods or services does not arise under the GSTA when an entity stops being a debt funding special purpose vehicle or when a person replaces another person as an originator for a debt funding special purpose vehicle.

Extending date of repeal of information-sharing provision

New clause 200I will extend the date of the repeal of schedule 7, part C, subpart 1, clause 36 of the TAA from 1 April 2025 to 1 April 2027 to ensure the current authorising provision for information sharing between Inland Revenue and the Companies Office is repealed on the same date that the proposed new information-sharing agreement would come into force.

Non-deductibility of GST flat-rate credit

New clause 29(1A) inserts *new section DB 2(1)(ab)* into the ITA to clarify that income tax deductions for the flat-rate credit, which is funded through the GST system, are not available for marketplace operators or listing intermediaries.

Extension of timeframe before expiration

New clause 150B amends section 226 of the TAA to clarify that the section allows a timeframe to be extended in advance of the expiration of that timeframe.

Minor and technical amendments

The AP also makes the following minor and technical changes to the Bill:

- *clause 6(4B)* is replaced to clarify the drafting;
- *clause 39* is amended to clarify that the relevant valuation is of the interest at the start of the income year;
- an additional cross-heading is inserted into *clause 53B*;
- *new clause 57B(2B)* corrects the defined terms list in section HC 8B of the ITA;
- *new clause 57D(1B)* inserts an additional term in the defined terms list in section HC 26 of the ITA;
- *clause 78* is amended to correct a cross-reference and clarify the heading for *new section HR 10B(2B)* of the ITA;
- *clause 91D* is amended to ensure the “greater of” test in *new section MH 4(5)* of the ITA functions correctly;
- *clause 104* is amended to correct the defined terms list in *new section RI 3* of the ITA;

- *clause 105(2C)* is amended to ensure drafting consistency;
- *clauses 105(17), 156(2), and 170(2)* are amended to correct cross-references;
- *clause 113(1A)* is amended to clarify the drafting;
- *clause 134C* is amended to correct the heading;
- *clause 153(1)* is amended to correct terminology; and
- *new clause 153(6)* corrects terminology.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Amendment Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=ap&subtype=government&year=2025&no=247&>

Regulatory impact assessments

The Inland Revenue Department produced a regulatory impact statement on 6 September 2024 to help inform the new policy decisions taken by the Government relating to a temporary overseas donee status being made permanent by the contents of this Amendment Paper.

The Ministry of Education produced a supplementary analysis report on final-year fees free on 22 October 2024.

Copies of these can be found at—

- <https://www.taxpolicy.ird.govt.nz/publications/2024/ria-pack-emergency-response-tax-bill>
- <https://www.regulation.govt.nz/our-work/regulatory-impact-statements/>