

Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following legislation:

- Income Tax Act 2007;
- Tax Administration Act 1994;
- Goods and Services Tax Act 1985;
- Student Loan Scheme Act 2011;
- KiwiSaver Act 2006;
- Companies Act 1993;
- Land Transfer Act 2017;
- Social Security Act 2018;
- Accident Compensation Act 2001;
- Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017; and
- Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018.

Broadly, the policy proposals in this Bill fall into 3 categories. The first category sets the annual rates of income tax for the 2020–21 tax year.

The second category comprises proposals aimed at improving current tax settings within a broad-base, low-rate framework. This framework helps ensure that taxes are fair and efficient, and that they impede economic growth as little as possible. It also helps keep compliance costs low and minimises opportunities for avoidance and evasion. The framework underpins the Government’s Revenue Strategy and helps maintain confidence that the tax system is fair, which is crucial to encouraging voluntary

compliance. Proposals in this category include amendments to the income tax treatment of feasibility expenditure and land.

Although New Zealand has relatively strong tax settings, it is important to maintain the tax system and ensure that it continues to be fit for purpose. Changes in the economic environment, business practice, or interpretation of the law can mean that the tax system becomes unfair, inefficient, complex, or uncertain. The tax system needs to be responsive to accommodate these concerns.

The third category relates to proposals aimed at modernising and improving the settings for tax administration, the goods and services tax regime, KiwiSaver and social policy rules administered by Inland Revenue. As well, the third category contains remedial amendments to the Companies Act 1993 and the Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017.

The main policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (GTPP). It is a very open and interactive engagement process between the public and private sectors, which helps ensure that tax and social policy changes are well thought through. This process is designed to ensure better, more effective policy development through early consideration of all aspects, and likely impacts, of proposals, and increased opportunities for public consultation.

The GTPP means that major tax initiatives are subject to public scrutiny at all stages of their development. As a result, Inland Revenue and Treasury officials have the opportunity to develop more practical options for reform by drawing on information provided by the private sector and the people who will be affected. Further information on the GTPP can be found at <http://taxpolicy.ird.govt.nz/how-we-develop-tax-policy>.

The following is a brief summary of the specific policy measures contained in this Bill. A comprehensive explanation of all the policy items is provided in a commentary on the Bill that is available at <https://taxpolicy.ird.govt.nz/publications/2020-bill-commentary-arferm-bill/overview>.

Setting the annual rates of income tax for the 2020–21 tax year

The Income Tax Act 2007 requires the rates of income tax to be set each year by an annual taxing Act. The Bill proposes that the annual rates of income tax for the 2020–21 tax year be set at the rates currently specified in schedule 1, part A of the Income Tax Act 2007 (that is, the rates remain unchanged).

Feasibility and other expenditure

The Bill proposes amendments to clarify when taxpayers are able to deduct expenditure incurred in considering the feasibility of making investments in assets or new business models. The change is the first of a number of tax measures the Government is implementing to support its Economic Strategy.

The Bill allows taxpayers to deduct, in equal proportion over a 5-year period, expenditure incurred in completing, creating, or acquiring property if that property is aban-

doned prior to completion and would have been depreciable property if it had been completed.

The rule also applies to feasibility expenditure incurred by taxpayers in creating, completing, or acquiring property that would typically be taxable if sold, such as revenue account property like trading stock.

Deductions start in the year in which the taxpayer abandons further work on the property.

A condition of deductibility is that the taxpayer is not able to deduct the expenditure under another rule in the Income Tax Act 2007.

The rule overrides the capital limitation rule, which prohibits tax deductions for expenditure on assets that have an enduring role in the taxpayer's business.

The changes to the tax treatment of feasibility expenditure respond to private sector concerns following the decision in *Trustpower Ltd v Commissioner of Inland Revenue* [2016] NZSC 91, which potentially limited deductibility of expenditure incurred on assets that are subsequently abandoned. The proposed amendments are directed at ensuring tax is not a barrier for businesses seeking to invest in new assets.

Immediate deduction for feasibility expenditure

The amendments also provide, as a compliance cost savings measure for small-to-medium-sized enterprises, an immediate deduction for feasibility expenditure incurred in creating, completing, or acquiring depreciable property or revenue account property if the total of such expenditure for the income year is \$10,000 or less. The deduction applies if the taxpayer is unable to deduct the expenditure elsewhere under the Act.

Integrity measure for certain property

As an integrity measure, amounts deducted for property that is later completed, created, or replaced are treated as income in the year in which the property is completed or created, or a similar asset is acquired. The amount to be returned as income equals the direct costs for that asset. The requirement to return as income amounts previously deducted does not apply to expenditure that has been immediately deducted under the \$10,000 *de minimis* rule.

The amendments apply to qualifying expenditure incurred in the 2020–21 and later income years.

Changes to the land rules

The Bill contains proposals arising out of the first tranche of the Government's review of the current land rules. The objective of this review is to improve the efficient use of land, and ensure that the current tax settings are fair, balanced, and support productive investment.

Habitual buying and selling of property

The Bill proposes amendments that will tighten the current rules that relate to habitual buying and selling of homes and business premises. There are concerns that the current regular pattern restrictions allow taxpayers who habitually buy and sell land to structure around existing rules. The amendments will ensure that taxpayers cannot structure around the rules by using different people or entities to carry out separate transactions, or by varying what is done to the land in each transaction so that there is no “pattern”. The proposed amendments demonstrate the Government’s commitment that the land rules capture speculators.

Deductibility of revenue account property

The Bill also proposes an amendment to clarify that the cost of revenue account property (i.e. the cost of acquisition and capital improvements) is deductible, even where it was not known at the time that the costs were incurred that the property would be subject to tax on sale, or where the property was used privately while it was held.

Changes to the Land Transfer Tax Statements

People buying and selling property are currently required to complete up to 3 forms:

- the Land Transfer Tax Statement (LTTS);
- the Residential Land Statement; and
- the Residential Land Withholding Tax Declaration.

The content of the LTTS is largely prescribed within the Land Transfer Act 2017 and changes must be made by legislative amendment. Conversely, the requirements for both the Residential Land Statement and the Residential Land Withholding Tax Declaration forms may be altered without legislative amendment to primary legislation.

This Bill provides that the content of the LTTS be moved from the Land Transfer Act 2017 to regulations. This will bring the requirements for the LTTS into alignment with other information requirements in the Land Transfer Act 2017. The transitional provisions ensure the current requirements will remain in place until such time as regulations are made.

Income tax treatment of leases subject to NZ IFRS 16

New Zealand Equivalent to International Financial Reporting Standard 16 Leases (NZ IFRS 16) sets out the accounting treatment of leases by entities with IFRS reporting obligations for income years starting on or after 1 January 2019.

The Bill proposes to allow taxpayers who apply NZ IFRS 16 to more closely align their tax treatment with their accounting treatment for certain operating leases. As NZ IFRS 16 typically slightly accelerates expenditure compared with the previous treatment, the Bill proposes certain exclusions and adjustments (rather than complete alignment) to ensure that taxpayers choosing this proposed method do not obtain a significant tax timing advantage over taxpayers who continue to use the existing rules.

The amendments apply from income years starting on or after 1 January 2019 to align with the commencement date of NZ IFRS 16.

Purchase price allocation

The Bill proposes amendments to the rules governing how parties to the sale of 2 or more assets with different tax treatments (a “mixed supply”) allocate the total sale/purchase price between the various assets, for tax purposes. The objective of the amendments is to prevent an overall revenue loss when sellers and buyers adopt different price allocations that minimise their own tax liabilities.

Specifically, the Bill includes the following requirements:

- If the parties agree an allocation, they must follow it in their tax returns.
- If the parties cannot agree an allocation, the seller determines the allocation, and notifies both the buyer and Inland Revenue within 2 months of the change in ownership of the assets. However, the seller must allocate amounts to taxable property (depreciable property, revenue account property, financial arrangements) such that there is no further loss on the sale of that property.
- If the seller does not make an allocation within the 2-month timeframe, the buyer must determine the allocation, and notify both the seller and Inland Revenue of it.
- Inland Revenue may challenge an allocation if it believes it does not reflect market values.
- The purchase price allocation rules will not apply to a transaction if the total purchase price is less than \$1 million, or the buyer’s total allocation to taxable property is less than \$100,000.

The amendments will apply to sales agreements entered into on or after 1 April 2021.

Research and development tax credits: capital expenditure eligibility

The Bill proposes to insert an intention test into the criteria that determine when capital account expenditure incurred to create depreciable tangible property is eligible for the research and development (R&D) tax credit. The test is aimed at excluding such expenditure where a claimant intends to use the property for a non-R&D purpose. This test will require claimants to assess not just how the asset is being used in the year a tax credit claim is made, but also how they intend to use the asset over its life.

The amendment also adds a requirement that, to be eligible, expenditure to create depreciable property must be on a core R&D activity. This requirement is aimed at preventing a claimant from circumventing the usual rules requiring assets used in R&D to be depreciated over time. For example, this requirement would prevent a person from claiming the up-front cost of constructing a machine in-house, where the machine does not involve any new technology and could be purchased elsewhere.

The proposed amendments mean that expenditure that contributes to the cost of depreciable tangible property will be eligible only if the asset is created as a result of

a core R&D activity and only if the property is used, and is intended to be used, solely for R&D for the lifetime of the asset.

Granting overseas donee status to additional charities

The Bill proposes to amend the Income Tax Act 2007 by adding 3 charities to the list of donee organisations in schedule 32. New Zealand charities that support activities overseas must be listed in schedule 32 for their donors to be eligible for tax benefits (in particular, the donation tax credit). The proposed new additions to schedule 32 are Active Hearts Foundation, Kiwilink, and Shimshal Trust.

Mycoplasma bovis

The Bill proposes to allow dairy and beef cattle farmers that have derived unexpected taxable income as a result of their herd being culled (in pursuit of eradicating *Mycoplasma bovis* from New Zealand), to evenly spread that income forward over 6 years. This will allow the taxable income to better match the replacement cost of the farmer's cattle herd.

This amendment supports a core principle of the Biosecurity Act 1993, that no person should be better or worse off because of the Crown's use of its powers under that Act to eradicate an organism.

The Bill proposes that the amendment will apply retrospectively from the 2017–18 income year as the first culls began in late 2017. Standard tax rules would continue to apply to the farmers' other income. It is anticipated that up to 50 farmers could be impacted by this proposal.

GST on outbound mobile roaming services

The Goods and Services Tax Act 1985 contains special rules for supplies of telecommunications services. Under these special rules, outbound mobile roaming services received by a New Zealand resident travelling overseas are zero-rated (subject to GST at the rate of 0%) or not subject to GST. Conversely, inbound mobile roaming services received by someone travelling in New Zealand may be standard-rated (subject to GST at the rate of 15%) but are generally not subject to GST.

The Bill proposes amendments to standard-rate outbound mobile roaming services received by New Zealanders overseas, and make inbound mobile roaming services received by non-residents in New Zealand either zero-rated or not subject to GST. The proposed amendment applies from 1 April 2021.

GST credit notes

The Bill proposes 2 amendments to ensure that a supplier that issues a GST credit note to correct a mistake in a previous GST return receives similar outcomes to a supplier that applies to the Commissioner to amend the assessment for the original GST return.

The first proposed amendment will allow a supplier to issue a credit note to provide the correct amount of GST adjustment in cases where they have incorrectly charged

15% GST on a supply of goods or services which was, in fact, a zero-rated supply (such as an export) or an exempt supply (such as a financial service). In order to align with existing commercial practices, the proposed amendment would apply retrospectively from 1 April 2012.

The second proposed amendment applies time limits for issuing a credit note for a supply made in an earlier period. The proposed time limits for issuing a credit note will align with the “time bar” that applies to GST refunds which are made through amendments to GST assessments. The proposed amendment would apply from the date that the Bill is introduced.

Portability of Australian unclaimed superannuation money

The Bill would extend the definition of “Australian complying superannuation scheme” in the KiwiSaver Act 2006 and Income Tax Act 2007 to include the Australian Commissioner of Tax in their capacity as the holder of unclaimed superannuation money. This would mean unclaimed superannuation money transferred from the Australian Taxation Office (ATO) to a KiwiSaver scheme would be covered by the existing rules applying to retirement savings transferred from an Australian superannuation scheme to a KiwiSaver scheme.

To enable the transfer of unclaimed superannuation money from the ATO, amendments are also required to Australian legislation and to the Trans-Tasman Retirement Savings Portability Arrangement between New Zealand and Australia. Therefore, the application date for the portability amendments in the Bill will be same as the date stipulated in an exchange of diplomatic notes between New Zealand and Australia to amend the Arrangement. These notes would be exchanged after amendments have been enacted in both New Zealand and Australia.

Remedial amendments and maintenance corrections

A number of remedial matters are also addressed in the Bill, including:

- several remedial amendments to the R&D tax credit regime to align the legislation with policy intent and improve the administration of the regime;
- clarifying that the minors’ income tax exemption does not apply to beneficiary income paid to a minor;
- requiring cash dividends be assessed on a cash basis;
- clarifying a taxpayer’s ability to challenge an amended assessment due to a voluntary disclosure;
- subjecting unpaid KiwiSaver voluntary employer contributions to the penalties, recoveries, and use of money interest rules;
- clarifying the definition of *custodial institution* to remove the distinction between resident and non-resident entities, and to clarify the type of tax that must be withheld; and
- correcting minor faults of expression, reader’s aids, and incorrect cross-references.

Departmental disclosure statement

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=273>

Regulatory impact assessment

The Inland Revenue Department produced regulatory impact assessments on 13 September 2019, 17 October 2019, 23 October 2019, 19 November 2019, and 26 February 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments can be found at—

- <https://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment>
- <https://treasury.govt.nz/publications/legislation/regulatory-impact-assessments>

Clause by clause analysis

Clause 1 gives the title of the bill.

Clause 2 gives the dates on which the clauses of the bill come into force.

Part 1

Annual rates of income tax

Clause 3 sets the annual rates of income tax for the 2020–21 tax year.

Part 2

Amendments to Income Tax Act 2007

Clause 4 provides that *clauses 5 to 64* amend the Income Tax Act 2007 and *clause 65* makes consequential amendments to other enactments.

Clause 5 amends section CB 16A by inserting new *subsections (2B) and (2C)*, which provide that the section applies to a group of persons, as defined.

Clause 6 amends section CB 16 by replacing subsection (2) with new *subsections (2) to (2C)*, which provide that the business exclusion in the section does not apply for a person who has engaged in a regular pattern of acquisition and disposals or for a group of persons, as defined, who have engaged in such a pattern.

Clause 7 amends section CB 19 by replacing subsection (3) with new *subsections (3) to (5)*, which provide that the residential exclusion in the section does not apply for a person who has engaged in a regular pattern of acquisition and disposals or for a group of persons, as defined, who have engaged in such a pattern.

Clause 8 inserts a *new heading and new section CC 14*, which provides for the income under *section EJ 10B* of a person using NZ IFRS 16 for an operating lease of a personal property lease asset.

Clause 9 amends section CD 1 by inserting *new subsection (2)*, which provides that income arising from a dividend other than a non-cash dividend is allocated to the income year in which the dividend is received.

Clause 10 amends section CE 6 to bring exempt employee share schemes within the section.

Clause 11 inserts a *new heading and new section CH 13* to ensure that deductions under *section DB 66* for feasibility and other expenditure on property are clawed back if the property is subsequently completed, created, acquired, or replaced.

Clause 12 amends section CW 55BB by excluding beneficiary income from the minors' income that is exempt income under the section.

Clause 13 amends section CW 58 to bring acquisitions and disposals of shares by trustees as nominees for a company within the section.

Clause 14 amends section DB 23 by replacing subsection (3) to clarify the relationship between subsection (1) and the permissions and limitations.

Clause 15 inserts a *new heading and new section DB 51C*, which provides for the deductions under *section EJ 10B* of a person using NZ IFRS 16 for an operating lease of a personal property lease asset.

Clause 16 inserts a *new heading and new sections DB 66 and DB 67* to allow deductions for unsuccessful feasibility and other expenditure that would not be otherwise deductible.

Clause 17 repeals section EB 24 and a heading consequential on the requirement that a vendor and purchaser must agree on the apportionment of the price paid for the sale of a business.

Clause 18 amends section ED 3 by replacing a phrase that does not have a defined meaning.

Clause 19 amends section EE 40 by correcting a cross-reference.

Clause 20 repeals section EE 45(10) consequential on the requirement that a vendor and purchaser must agree on the apportionment of the price paid for the sale of a business.

Clause 21 amends section EJ 3 to clarify that certain elections to spread fertiliser expenditure can be made by taking a tax position on that basis in an income tax return and do not require separate notice to the Commissioner.

Clause 22 amends section EJ 10 consequential to implementing NZ IFRS 16 for operating leases of personal property lease assets.

Clause 23 inserts *new section EJ 10B* which gives income and deductions of a person using NZ IFRS 16 for operating leases of personal property lease assets.

Clause 24 amends section EL 2 to clarify the description of the relationship between section EL 4 and other sections in the subpart.

Clause 25 amends section EL 3 to clarify the definition of residential rental property.

Clause 26 amends section EW 15I by replacing a term for which the definition is being repealed.

Clause 27 amends section EW 48 by adding a cross-reference to *new sections GC 20 and GC 21*.

Clause 28 amends section EX 21 to remove a phrase that does not have a defined meaning.

Clause 29 amends section EX 28 by replacing a phrase that does not have a defined meaning.

Clause 30 amends section EY 5 by replacing a phrase that does not have a defined meaning.

Clause 31 amends section EY 7 by replacing a phrase that does not have a defined meaning.

Clause 32 amends section EY 11 by replacing a phrase that does not have a defined meaning.

Clause 33 inserts *new section EZ 4B* to effectively allow a person to spread forward their net income from cattle destroyed because of *Mycoplasma bovis*.

Clause 34 amends section FE 2 by inserting a *new subsection (4)* that limits the effects, for the association rule, of a settlement by a person on a non-resident company or trust.

Clause 35 amends section FE 6 by inserting *new subsections (3B) and (3C)*, which insert a formula for the income under the section of an excess debt entity with a worldwide group given by section FE 31D.

Clause 36 amends section FE 12 by correcting a cross-reference.

Clause 37 amends section FE 22 by correcting the punctuation of a paragraph.

Clause 38 amends section GB 20 by correcting the punctuation of a paragraph.

Clause 39 amends section GC 18, to correct faults of expression in the restricted transfer pricing regime calculations.

Clause 40 inserts *new sections GC 20 and GC 21*, to implement anti-avoidance measures that prevent manipulation of purchase price allocations.

Clause 41 amends section HC 10 by inserting a cross-reference to new requirements of section HC 30(4).

Clause 42 amends section HC 24 by correcting the list of defined terms.

Clause 43 amends section HC 27 to change the criteria for determining whether a beneficiary is a settlor of the trust if the beneficiary is owed money by the trustee and is not paid interest on the debt or is paid interest at less than the market rate.

Clause 44 amends section HC 30 by amending subsection (4) and inserting *new subsection (4B)*. The amendments provide for the treatment of parts of a distribution made by a trust after the trust ceases to be a foreign trust and the trustee: (a) fails to make an election under which the trust would be a complying trust but (b) makes a later election and, before the distribution is made, satisfies the trust's income tax obligations arising from the situation.

Clause 45 replaces section LY 5(1)(a), to clarify the requirements of the definition of *eligible research and development expenditure*.

Clause 46 repeals section MD 12(4) as a consequence of repealing the power to increase the amount of the parental tax credit by Order in Council.

Clause 47 amends section MF 7. *Subclause (1)* repeals the power to increase the amount of the parental tax credit by Order in Council. *Subclauses (2) and (3)* remove the requirement to undertake a review of the parental tax credit every 3 years. *Subclause (4)* consequentially updates the list of defined terms.

Clause 48 replaces section OB 52 as a consequence of replacing section OP 22 to clarify when and how a credit balance in the imputation credit account of a group company may be transferred to the imputation credit account of a consolidated imputation group.

Clause 49 amends table O2 as a consequence of replacing sections OB 52 and OP 22.

Clause 50 replaces section OP 22 to clarify when and how a credit balance in the imputation credit account of a group company may be transferred to the imputation credit account of a consolidated imputation group.

Clause 51 amends table O19 as a consequence of replacing section OP 22.

Clause 52 amends section RA 1 by inserting, into the description of the scope of the subpart, a reference to residential land withholding tax.

Clause 53 amends section RC 5 by replacing a phrase that does not have a defined meaning.

Clause 54 amends section RD 24 by correcting a reference to a defined term.

Clause 55 amends section RE 2 by clarifying the definition of *resident passive income* in relation to rebates to members from mutual associations.

Clause 56 amends section RE 10C to clarify the type of tax to be withheld and to remove the distinction between resident entities and non-resident entities in the definition of *custodial institution*.

Clause 57 amends section RF 2C(6) by correcting the value of an item needed to meet the requirements of that subsection.

Clause 58 amends section YA 1. *Subclause (2)* corrects a cross-reference in the definition of *annual branch equivalent tax account return*. *Subclause (3)* replaces the definition of *Australian complying superannuation scheme*, so as to include the Australian Commissioner of Tax in a capacity relating to unclaimed money and lost members. *Subclause (4)* amends the definition of *business premises* by including a refer-

ence to the land sales provisions. *Subclause (5)* amends the definition of *claim* by replacing a phrase that does not have a defined meaning. *Subclause (6)* amends the definition of *dispose* by inserting a cross-reference to *new sections GC 10 and GC 21*. *Subclause (7)* amends the definition of *dividend* by clarifying the status of rebates to members from mutual associations. *Subclause (8)* amends the definition of *early life regime application day* by replacing a phrase that does not have a defined meaning. *Subclause (9)* replaces the definition of *group of persons*, including references to new definitions in sections CB 16A, CB 16, and CB 19. *Subclause (10)* amends the definition of *lease* by inserting a new cross-reference to *section EJ 10B*. *Subclause (11)* repeals the definition of *NZIAS 17* as it is redundant. *Subclause (12)* inserts a definition of *NZ IFRS 16*. *Subclause (13)* repeals the definition of *specified living allowance* as it is redundant. *Subclause (14)* gives the application period for *subclause (7)*.

Clause 59 amends schedule 21 to ensure that R&D tax credits are not available for mining activities.

Clause 60 amends schedule 21B by replacing *part B, clause 3* so as to restrict the situations in which the cost of depreciable tangible property used in performing a research and development activity is eligible for R&D tax credits. Also the eligibility criteria for R&D tax credits in respect of land, plant, and corporate governance are refined.

Clause 61 amends schedule 29, which contains a list of entities that are exceptions to the requirement for a minimum number of investors in each investor class of a portfolio investment entity. The amendments add lines trusts and their wholly-owned subsidiaries to the list.

Clause 62 amends schedule 32 by inserting 3 more organisations that perform charitable activities outside New Zealand.

Clause 63 amends schedule 36 to add Housing New Zealand Build Limited to the list of State enterprises that are subject to income tax.

Clause 64 amends the Income Tax Act 2007 as set out in *schedule 1* to align nomenclature with the Social Security Act 2018.

Clause 65 makes consequential amendments to nomenclature in other enactments as set out in *schedule 2*.

Part 3

Amendments to other enactments

Tax Administration Act 1994

Clause 66 provides that *clauses 67 to 84* amend the Tax Administration Act 1994.

Clause 67 amends section 3. *Subclause (2)* amends the definition of *deferrable tax* by inserting *new paragraph (d)*, which describes a situation in which a person's liability depends on the liability of another person who is in a dispute with the Commissioner. *Subclause (3)* inserts a definition of *New Zealand superannuation qualification age*.

Subclause (4) amends the definition of *tax* by updating cross-references to the KiwiSaver Act 2006.

Clause 68 amends section 4A to update a cross-reference to the KiwiSaver Act 2006.

Clause 69 amends section 17C to correct cross-referencing errors and ensure that the Commissioner may take extracts from, make a copy of, or remove a document that a person is required to produce as part of an inquiry by the Commissioner.

Clause 70 amends section 25E by amending cross-references as a consequence of the repeal of section 25K.

Clause 71 amends section 25J so that entities formerly subject to section 25K are included.

Clause 72 repeals section 25K as a consequence of the amendments to section 25J.

Clause 73 amends section 25MB to remove the distinction between resident entities and non-resident entities in the definition of *custodial institution*.

Clause 74 amends section 57B by amending cross-references as a consequence of the repeal of section 25K.

Clause 75 amends section 61 by amending a cross-reference as a consequence of the repeal of section 25K.

Clause 76 amends section 68CC by changing the deadline for an application for a variation of an approval by the Commissioner relating to the method of calculating research and development tax credits.

Clause 77 amends section 89D by inserting *new subsection (1B)*, which clarifies the aspects of an amended assessment that a taxpayer may dispute.

Clause 78 amends section 89DA by inserting *new subsection (1B)*, which clarifies the aspects of an amended assessment by a taxpayer that the taxpayer may dispute.

Clause 79 replaces *section 108(1E)*, which gives a time bar for an amendment by the Commissioner to an assessment that increases an amount of research and development tax credit.

Clause 80 amends section 120B to update a cross-reference to the KiwiSaver Act 2006.

Clause 81 amends section 139A to remove references to a statement that is no longer required.

Clause 82 amends section 139AB to correct a cross-reference.

Clause 83 amends section 157 to correct a cross-reference and update another cross-reference.

Clause 84 amends schedule 8 to provide for some amounts of tax for which an individual who uses a tailored tax code is liable.

Goods and Services Tax Act 1985

Clause 85 provides that *clauses 86 to 91* amend the Goods and Services Tax Act 1985.

Clause 86 amends section 2 by inserting a definition of *mobile roaming services*.

Clause 87 amends section 8 to provide for the treatment of inbound mobile roaming services and outbound mobile roaming services.

Clause 88 amends section 11(8D) to clarify the treatment of transactions that include a transfer of an interest in land as part of a transfer of a business as a going concern.

Clause 89 amends section 11AB to provide for the treatment of mobile roaming services.

Clause 90 amends section 25. *Subclause (1)* adds supplies of goods that had tax incorrectly charged at the rate of 15% when they should have been zero-rated or exempt, and for which an incorrect tax invoice has been issued by the supplier, to the list of situations when suppliers are required to issue credit notes. *Subclause (2)* imposes a time-limit on the issue of a credit note relating to a supply for which an incorrect tax invoice was issued. *Subclause (3)* requires the recipient to make a corresponding adjustment to reduce the input credits they claimed after receiving a tax invoice that was incorrect as a result of the new situation applying.

Clause 91 amends section 51 so that a supplier of telecommunication services mainly to non-residents that are in New Zealand is no longer excluded from the requirement to register.

Student Loan Scheme Act 2011

Clause 92 amends section 34 of the Student Loan Scheme Act 2011.

KiwiSaver Act 2006

Clause 93 amends section 4(1) of the KiwiSaver Act 2006. *Subclause (2)* replaces the definition of *Australian complying superannuation scheme*. *Subclause (3)* amends the definition of *KiwiSaver status* to correct nomenclature.

Companies Act 1993

Clause 94 amends section 53 of the Companies Act 1993 to update a cross-reference.

Land Transfer Act 2017

Clause 95 provides that *clauses 96 to 100* amend the Land Transfer Act 2017.

Clause 96 amends section 77(1) by inserting a new definition of *IRD number* and replacing the definition of *tax information*, to reflect the changes being made to section 79.

Clause 97 replaces section 79, which specifies the content of the tax statements that are required to be completed by transferors and transferees of land.

Currently, the information required to be in a tax statement is set out in section 79. *New section 79* provides for the content of tax statements to be set out in regulations rather than in the Land Transfer Act 2017. This will make it easier for the required content to be updated when necessary.

Having the content of tax statements set out in regulations is consistent with the approach taken in many other provisions of the Land Transfer Act 2017 in relation to other kinds of documents (*see*, for example, sections 87, 91, 138, and 155).

Clause 98 consequentially amends section 83, which relates to the release of information provided in tax statements. *New section 83(2)* ensures that the current restriction on the disclosure of a person's name and IRD number (and any overseas equivalent) continues.

Clause 99 consequentially amends section 227 to enable regulations to be made for the purposes of *new sections 79 and 83(2)*.

Clause 100 inserts *new Part 2* in Schedule 1, which sets out transitional provisions. *New clause 14* applies from the date on which the Land Transfer Act 2017 is amended until regulations prescribing information for the purposes of *new section 79(1)(a)* come into force. During that period, a tax statement must continue to include the information currently set out in section 79.

Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017

Clause 101 amends regulation 3 of the Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017 to update a cross-reference.

Schedule 1 (Income Tax Act 2007: aligning nomenclature with Social Security Act 2018)

Schedule 1 lists amendments to the Income Tax Act 2007 that align the nomenclature used in the Act for benefits with the nomenclature used in the Social Security Act 2018.

Schedule 2 (Other enactments: consequential amendments aligning nomenclature)

Schedule 2 lists amendments to enactments other than the Income Tax Act 2007 as a consequence of the changes in *Schedule 1*.

Hon Stuart Nash

Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

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

2 Commencement

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.

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- (2) **Sections 14, 19, 37, 48, 49, 50, 51, 55, and 58(7) and (14)** come into force on 1 April 2008.
- (3) **Section 42** comes into force on 1 April 2009.
- (4) **Sections 30, 31, and 58(8)** come into force on 1 July 2010.
- (5) **Sections 90(1) and (3) and 92** come into force on 1 April 2012. 5
- (6) **Section 12** comes into force on 29 May 2012.
- (7) **Section 58(2)** comes into force on 1 July 2012.
- (8) **Sections 18, 28, 29, 32, 53, and 58(5)** come into force on 2 November 2012.
- (9) **Section 38** comes into force on 1 April 2014. 10
- (10) **Section 88** comes into force on 30 June 2014.
- (11) **Section 52** comes into force on 1 July 2016.
- (12) **Section 33** comes into force on 1 April 2017.
- (13) **Section 63** comes into force on 23 May 2018.
- (14) **Sections 36, 39, and 57** come into force on 1 July 2018. 15
- (15) **Sections 8, 15, 22, 23, 26, and 58(10), (11), and (12)** come into force on 1 January 2019.
- (16) **Sections 82 and 101** come into force on 18 March 2019.
- (17) **Sections 24, 25, 45, 59, 60, 79, and 93(3)** come into force on 1 April 2019. 20
- (18) **Section 94** comes into force on 17 November 2019.
- (19) **Sections 41 and 44** come into force on 23 March 2020.
- (20) **Sections 9, 11, 16, 21, 43, 56, 62, 67(3), 70, 71, 72, 73, 74, 75, and 84** come into force on 1 April 2020.
- (21) **Section 90(2)** comes into force on the date of introduction of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill. 25
- (22) **Sections 17, 20, 27, 40, 58(6), 67(4), 68, 76, 80, and 83** come into force on 1 April 2021.
- (23) **Sections 86, 87, 89, and 91** come into force on 1 April 2022. 30
- (24) **Sections 58(3) and 93(2)** come into force on the day specified in the relevant notes exchanged by the Governments of Australia and New Zealand, as provided by clause 17 of the Arrangement between them on trans-Tasman retirement savings portability.

Part 1 Annual rates of income tax

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

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2020–21 tax year, be paid at the basic rates specified in schedule 1 of that Act. 5

Part 2 Amendments to Income Tax Act 2007

4 Income Tax Act 2007

Sections 5 to 64 amend the Income Tax Act 2007 and **section 65** makes consequential amendments to other enactments. 10

5 Section CB 16A amended (Main home exclusion for disposal within 5 years)

(1) In section CB 16A(1),—

(a) replace “a person who disposes of residential land” with “a person who disposes of residential land (**person A**)”: 15

(b) replace “the person” with “person A” in each place.

(2) In section CB 16A(2),—

(a) replace “a person who disposes of residential land” with “person A”:

(b) in paragraphs (a) and (b), replace “the person” with “person A” in each place. 20

(3) After section CB 16A(2), insert:

Regular patterns undertaken by groups of persons

(2B) For the purposes of **subsection (2)(b)**, in relation to residential land described in **subsection (1)**, person A includes a group of persons if the requirements of **subsection (2C)** are met. 25

Meaning of group of persons

(2C) For the purposes of **subsection (2B)**, a **group of persons**—

(a) means 2 or more persons when together all of the persons occupy, or have occupied, residential land described in **subsection (1)**; and 30

(b) includes a trustee of a trust or another entity if a person referred to in **paragraph (a)** has significant involvement in, or control of, the activities of the trustee or other entity.

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

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

- (1) In section CB 16(1),—
- (a) in paragraph (a), replace “the person” with “the person (**person A**)”:
 - (b) in paragraph (b)(i), (ii), and (iii), replace “the person” with “person A” in each place: 5
 - (c) in paragraph (b)(ii), replace “the person’s” with “person A’s” in each place.
- (2) Replace section CB 16(3) with:
- Exception* 10
- (3) The exclusion does not apply when—
- (a) section CB 6(1) applies to the disposal; and
 - (b) person A has engaged in a regular pattern of acquiring and disposing of land described in **subsection (1)**.
- Regular patterns undertaken by groups of persons* 15
- (4) For the purposes of **subsection (3)**, in relation to land described in **subsection (1)**, person A includes a group of persons if the requirements of **subsection (5)** are met.
- Meaning of group of persons*
- (5) For the purposes of **subsection (4)**, a **group of persons**— 20
- (a) means 2 or more persons when together all of the persons occupy, or have occupied, land described in **subsection (1)**; and
 - (b) includes a trustee of a trust or another entity if a person referred to in **paragraph (a)** has significant involvement in, or control of, the activities of the trustee or other entity. 25
- (3) In section CB 16, list of defined terms, insert “group of persons”.

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

- (1) In section CB 19(1),—
- (a) replace “a disposal of land” with “a disposal of land by a person (**person A**)”:
 - (b) in paragraph (b), replace “the person” with “person A”. 30
- (2) Replace section CB 19(2) with:
- Exception*
- (2) The exclusion does not apply when—
- (a) section CB 6(1) applies to the disposal; and 35
 - (b) person A has engaged in a regular pattern of acquiring and disposing of land described in subsection (1).

<i>When regular patterns undertaken by groups of persons</i>	
(2B)	For the purposes of subsection (2) , person A includes a group of persons if the requirements of subsection (2C) are met.
<i>Meaning of group of persons</i>	
(2C)	For the purposes of subsection (2B) , a group of persons means 2 or more persons if—
(a)	the persons occupy premises mainly to carry on a substantial business from them as described in subsection (1)(b) , irrespective of the nature of any business carried on from the premises; and
(b)	a person, whether or not they occupy premises as described in subsection (1)(b) , has significant involvement in, or control of, the activities of all persons referred to in paragraph (a) .
(3)	In section CB 19, list of defined terms, insert “group of persons”.
8	New heading and section CC 14 inserted
(1)	After section CC 13, insert:
<i>IFRS leases</i>	
CC 14 NZ IFRS 16 leases	
<i>When this section applies</i>	
(1)	This section applies when a person has, under section EJ 10B (IFRS leases), an amount of income for their IFRS lease.
<i>Amount, and timing, of income</i>	
(2)	The person has income quantified and allocated under section EJ 10B .
Defined in this Act: amount, income, person	
(2)	Subsection (1) applies for income years starting on or after 1 January 2019.
9	Section CD 1 amended (Dividend)
(1)	After the heading to section CD 1, insert “ <i>Income</i> ” as a subsection heading.
(2)	In section CD 1, insert as subsection (2):
<i>Timing of income: dividends other than non-cash dividends</i>	
(2)	The income is allocated to the income year in which the person receives the dividend if the dividend is a dividend other than a non-cash dividend.
(3)	In section CD 1, list of defined terms, insert “income year” and “non-cash dividend”.
(4)	Subsections (1) and (2) apply for the 2020–21 and later income years.

- 10 Section CE 6 amended (Trusts are nominees)**
- (1) In section CE 6, words before the paragraphs, replace “employee share scheme” with “employee share scheme or an exempt ESS”.
- (2) In section CE 6, list of defined terms, insert “exempt ESS”.
- 11 New heading and section CH 13 inserted** 5
- (1) After section CH 12, insert:
- Feasibility expenditure clawback*
- CH 13 Feasibility expenditure clawback**
- When this section applies*
- (1) This section applies when a person— 10
- (a) has deducted an amount under **section DB 66(2)** (Feasibility expenditure: spread deduction) for property in relation to which they abandoned further progress, with the result that the property was not completed, created, or acquired; and
- (b) subsequently completes or creates the property, or acquires the property or similar property. 15
- Income*
- (2) The person has, in the income year in which they subsequently complete, create, or acquire the property or similar property, income equal to the amount of the total deductions under **section DB 66(2)** for the property, to the extent to which the deductions are directly for the property. 20
- Defined in this Act: amount, deduction, income, income year, person
- (2) **Subsection (1)** applies for the 2020–21 and later income years.
- 12 Section CW 55BB amended (Minors’ income, to limited extent)**
- (1) After section CW 55BB(2)(a)(iii), insert: 25
- (iiib) beneficiary income:
- (2) In section CW 55BB, list of defined terms, insert “beneficiary income”.
- (3) **Subsection (1)** applies for the 2012–13 and later income years. However, **subsection (1)** does not apply if, before the date of introduction of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill, a person files a return of income that ignores the application of **subsection (1)**. 30
- 13 Section CW 58 amended (Disposal of companies’ own shares)**
- (1) In section CW 58, words before the paragraphs, replace “disposing of shares in the company” with “disposing of shares in the company, including if the com- 35

pany disposes of the shares as the result of the application of section CE 6 (Trusts are nominees),”.

- (2) In section CW 58(a), replace “acquired the shares” with “acquired the shares, including if the company acquired the shares as the result of the application of section CE 6”.

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14 Section DB 23 amended (Cost of revenue account property)

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

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15 New heading and section DB 51C inserted

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

IFRS leases

DB 51C NZ IFRS 16 leases

When this section applies

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

Amount and timing of deduction

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

Defined in this Act: amount, deduction, person

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

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16 New heading and sections DB 66 and DB 67 inserted

- (1) After section DB 65, insert:

Feasibility expenditure

DB 66 Feasibility expenditure: spread deduction

When this section applies

- (1) This section applies when a person has—
- (a) incurred expenditure for the income year in relation to making progress towards completing, creating, or acquiring property that, if it were to be completed, created, or acquired, the property would be—
- (i) depreciable property for which the depreciation rate is more than 0%:
- (ii) revenue account property; and

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- (b) abandoned further progress in relation to the property, with the result that it is not completed, created, or acquired; and
- (c) no deduction in relation to the property or expenditure under any other provision.
- Deduction: spread forward* 5
- (2) The person is allowed a deduction for the expenditure described in **subsection (1)**, in equal proportions over a period of 5 income years starting in the year in which they abandon further progress.
- Link with subpart DA*
- (3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 10
- Defined in this Act: amount, business, capital limitation, deduction, depreciable property, general limitation, general permission, income year, person
- DB 67 Feasibility expenditure: immediate deduction**
- When this section applies* 15
- (1) This section applies when a person has—
- (a) incurred expenditure for the income year in relation to making progress towards completing, creating, or acquiring property that, if it were to be completed, created, or acquired, the property would be—
- (i) depreciable property for which the depreciation rate is more than 0%; 20
- (ii) revenue account property; and
- (b) no deduction for the property or expenditure under any other provision.
- Deduction: immediate*
- (2) The person is allowed a deduction for the expenditure described in **subsection (1)**, if their total expenditure described in **subsection (1)** is \$10,000 or less for the income year. 25
- Link with subpart DA*
- (3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 30
- Defined in this Act: amount, business, capital limitation, deduction, depreciable property, general permission, general limitation, income year, person
- (2) **Subsection (1)** applies for the 2020–21 and later income years.
- 17 Heading and section EB 24 repealed**
- (1) Repeal the heading before section EB 24 and section EB 4. 35
- (2) **Subsection (1)** applies for agreements for the disposal and acquisition of property entered into on or after 1 April 2021.

- 18 Section ED 3 amended (Part-year tax calculations for transfers: general insurance OCR)**
- In section ED 3(3), replace “new life insurance rules” with “rules for life insurers”.
- 19 Section EE 40 amended (Transfer of depreciable property on or after 24 September 1997)** 5
- (1) In section EE 40(10), replace “Subsection (6)” with “Subsection (9)”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 20 Section EE 45 amended (Consideration for purposes of section EE 44)**
- (1) Repeal section EE 45(10). 10
- (2) **Subsection (1)** applies for agreements for the disposal and acquisition of property entered into on or after 1 April 2021.
- 21 Section EJ 3 amended (Spreading forward of fertiliser expenditure)**
- (1) Replace section EJ 3(5) with:
- How elections made* 15
- (5) An election under this section is made as follows:
- (a) a person makes an election under subsection (2) by taking a tax position on that basis in their return of income for the income year to which they choose to allocate some or all of the expenditure:
- (b) a person makes an election under subsection (4),— 20
- (i) paragraph (a), by taking a tax position on that basis in their return of income for the income year in which the person ceases to carry on the business:
- (ii) paragraph (b), by notifying the Commissioner of the allocation within the time within which the person is required to file a return of income for the income year in which the person ceases to carry on the business. 25
- Extension of time: elections under subsection (4)(b)*
- (5B) The Commissioner may extend the time limit imposed under **subsection (5)(b)(ii)** in any case or class of cases. 30
- (2) After section EJ 3(6), insert:
- Elections under subsection (2) irrevocable*
- (7) An election made under subsection (2) cannot be revoked.
- (3) In section EJ 3, list of defined terms,—
- (a) insert “notify” and “tax position”: 35
- (b) delete “notice”.

- (4) **Subsections (1) and (2)** apply for the 2020–21 and later income years.
- 22 Section EJ 10 amended (Personal property lease payments)**
- (1) After section EJ 10(1)(c), insert:
- (d) is not an operating lease to which **section EJ 10B** applies.
- (2) In section EJ 10, list of defined terms, insert “operating lease”. 5
- (3) **Subsections (1) and (2)** apply for income years starting on or after 1 January 2019.
- 23 New section EJ 10B inserted (IFRS leases)**
- (1) After section EJ 10, insert:
- EJ 10B IFRS leases** 10
- When this section applies*
- (1) This section, other than **subsection (5)**, applies to a person’s operating lease of a personal property lease asset (the **IFRS lease**), as lessee, if—
- (a) the person, as lessee, uses NZ IFRS 16 in their accounts for the IFRS lease or would use NZ IFRS 16 if that lease met the materiality thresholds for NZ IFRS 16; and 15
- (b) the lessor for the IFRS lease is not associated with the person; and
- (c) the person does not sublease the personal property lease asset to another person; and
- (d) the person irrevocably chooses to use this section for leases described in **paragraphs (a) to (c)**, as evidenced by a return of income made in accordance with this section. 20
- Deduction: formula*
- (2) The person, as lessee, is allowed a deduction for an income year for the IFRS lease equal to the amount calculated using the formula— 25
- accounting expenditure – add-back adjustment + impairment and revaluation adjustment – make-good and direct costs adjustment.
- Definition of items in formula*
- (3) In the formula in **subsection (2)**,—
- (a) **accounting expenditure** is the total amount recognised by the person through their profit and loss account for the IFRS lease for the income year, if the amount is in accordance with NZ IFRS 16: 30
- (b) **add-back adjustment** is the total amount of the relevant positive or negative accounting measures in **subparagraphs (i) and (ii)**, used by the person in accordance with IFRS through their profit and loss account for the income year— 35

<ul style="list-style-type: none"> (i) impairment of the lease asset described in paragraph 33 of NZ IFRS 16 arising in the income year: (ii) revaluation or impairment of the lease asset described in paragraph 35 of NZ IFRS 16 arising in the income year: 	5
<ul style="list-style-type: none"> (c) impairment and revaluation adjustment is the amount of the add-back adjustment under paragraph (b) spread proportionally on a daily basis over the remaining income years of the lease term: 	5
<ul style="list-style-type: none"> (d) make-good and direct costs adjustment is the total amount of the relevant positive or negative accounting measures in subparagraphs (i) and (ii), spread proportionally on a daily basis over the remaining income years of the lease term— 	10
<ul style="list-style-type: none"> (i) make-good costs for the lease described in paragraph 24(d) of NZ IFRS 16: 	10
<ul style="list-style-type: none"> (ii) direct costs for the lease described in paragraph 24(c) of NZ IFRS 16, if the person chooses to apply this subparagraph, as evidenced by a return of income made in accordance with this subparagraph. 	15
<i>Deduction: incurred</i>	
<ul style="list-style-type: none"> (4) The person, as lessee, is allowed a deduction for the IFRS lease for — 	
<ul style="list-style-type: none"> (a) make-good costs, described in subsection (3)(d)(i), for the income year that they incur the costs: 	20
<ul style="list-style-type: none"> (b) direct costs, described in subsection (3)(d)(ii), for the income year that they incur the costs, if they have chosen to apply subsection (3)(d)(ii). 	20
<i>Wash-up: income or deduction</i>	
<ul style="list-style-type: none"> (5) The person, as lessee, has an amount of income or deduction for the income year in which the IFRS lease ends or ceases to be an IFRS lease under subsection (1) calculated using the formula— 	25
$\text{IFRS deductions} - \text{IFRS income} - \text{expenditure.}$	
<i>Definition of items in formula</i>	
<ul style="list-style-type: none"> (6) In the formula in subsection (5),— 	
<ul style="list-style-type: none"> (a) IFRS deductions is the total amount deducted for the IFRS lease for all income years, including when the person has not applied this section: 	30
<ul style="list-style-type: none"> (b) IFRS income is the total amount of income for the IFRS lease for all income years, including when the person has not applied this section: 	30
<ul style="list-style-type: none"> (c) expenditure is the amount of expenditure for the IFRS lease for all income years, ignoring this section. 	35
<i>Transitional deduction: retrospective treatment spread forward</i>	
<ul style="list-style-type: none"> (7) If the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, then the person is allowed a deduction for a positive amount or income 	

- for a negative amount, spread in equal proportions over the income year and the following 4 income years, calculated using the formula—
- $$\text{retrospective accounting expenditure} - \text{retrospective tax adjustments} - \text{previous tax deductions.}$$
- Definition of items in formula* 5
- (8) In the formula in **subsection (7)**,—
- (a) **retrospective accounting expenditure** is the total amount of expenditure or loss recognised under NZ IFRS 16 for the IFRS lease for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, if the amount is in accordance with NZ IFRS 16: 10
- (b) **retrospective tax adjustments** is the total amount of adjustments and deductions in **subsections (3)(b), (c), and (d) and (4)** for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, treating **subsections (3)(b), (c), and (d) and (4)** as applying for those income years: 15
- (c) **previous tax deductions** is the total amount of deductions not in accordance with NZ IFRS 16 and not provided by this section, for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it. 20
- Defined in this Act: amount, deduction, income, income year, NZ IFRS 16, operating lease, person, personal property lease asset 25
- (2) **Subsection (1)** applies for income years starting on or after 1 January 2019.
- 24 Section EL 2 amended (Outline of subpart: specific provisions)**
- (1) In section EL 2(5), replace the words before paragraph (a) with “The following sections set out the properties to which the deduction allocation rule in section EL 4 does not apply:”. 30
- (2) **Subsection (1)** applies to the 2019–20 and later income years.
- 25 Section EL 3 amended (Definitions for this subpart)**
- (1) In section EL 3, definition of **residential rental property**,—
- (a) in paragraph (b), replace “residential land.” with “residential land; and”:
- (b) after paragraph (b), insert: 35
- (c) does not include properties that are excluded from the application of section EL 4 by sections EL 9, EL 10, EL 11, EL 12, and EL 13.
- (2) **Subsection (1)** applies to the 2019–20 and later income years.

- 26 Section EW 15I amended (Mandatory use of yield to maturity method for some arrangements)**
- (1) In section EW 15I(1)(b)(iib), replace “NZIAS 17” with “NZ IFRS 16”.
 - (2) In section EW 15I, list of defined terms, replace “NZIAS 17” with “NZ IFRS 16”. 5
- 27 Section EW 48 amended (Anti-avoidance provisions)**
- (1) In section EW 48(1)(c), replace “person).” with “person); or”.
 - (2) After section EW 48(1)(c), insert:
 - (d) **Sections GC 20 and GC 21** (which relate to purchase price allocation). 10
 - (3) **Subsection (1)** applies for agreements for the disposal and acquisition of property entered into on or after 1 April 2021.
- 28 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)**
- (1) In section EX 21(26), delete “the life insurance rules do not apply and”. 15
 - (2) In section EX 21, list of defined terms, delete “life insurance rules”.
- 29 Section EX 28 amended (Meaning of FIF)**
- (1) In section EX 28(c), replace “life insurance rules” with “rules for life insurers”.
 - (2) In section EX 28, list of defined terms, delete “life insurance rules”.
- 30 Section EY 5 amended (Part-year tax calculations)** 20
- In section EY 5(2), replace “in the new life insurance rules and in the rules they replace” with “in the rules for life insurers”.
- 31 Section EY 7 amended (Meaning of claim)**
- (1) In the heading to section EY 7(1), replace “*life insurance rules*” with “*rules for life insurers*”. 25
 - (2) In section EY 7(1), words before paragraph (a), replace “life insurance rules” with “rules for life insurers”.
 - (3) In section EY 7, list of defined terms, delete “life insurance rules”.
- 32 Section EY 11 amended (Superannuation schemes providing life insurance)** 30
- (1) In section EY 11(8), replace “life insurance rules” with “rules for life insurers”.
 - (2) In section EY 11, list of defined terms, delete “life insurance rules”.

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

- (1) After section EZ 4, insert:

EZ 4B Cattle destroyed because of *Mycoplasma bovis*: spreading*When this section applies*

5

- (1) This section applies when—

- (a) a person who owns or carries on a business has mixed-age cows on hand at the start of an income year (the
- cull year**
-) before the 2028–29 income year that they—

- (i) hold for the purposes of sale or exchange in the ordinary course of carrying on the business; and 10

- (ii) valued under the national standard cost scheme or the cost price method in the previous income year; and

- (b) in the cull year, some or all of the person's cattle (the
- destroyed cattle**
-) are destroyed, because of
- Mycoplasma bovis*
- , pursuant to— 15

- (i) a power exercised under section 121 of the Biosecurity Act 1993:

- (ii) a direction given under section 122 of that Act; and

- (c) either,—

- (i) if the cull year is before the 2019–20 income year, the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person has on hand at the end of the income year following the cull year is at least 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year; or 20

- (ii) in any other case, the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person expects to have on hand at the end of the income year following the cull year is at least 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year. 25

Timing of income

- (2) The person may choose to allocate the amount of income calculated using the formula in
- subsection (5)**
- equally between the 6 income years following the cull year. 35

Timing of deduction

- (3) When a person makes an election under
- subsection (2)**
- , part of any deduction that the person is allowed for the value that their livestock valued under subpart

EC (Valuation of livestock) had at the end of the income year before the cull year, as calculated under section EC 2 (Valuation of livestock), is allocated equally between the 6 income years following the cull year. The part must reflect the value, as calculated under that section at the end of the income year before the cull year using whichever of the national standard cost scheme or the cost price method the person used in the income year before the cull year, of the same number of each class of livestock to which the amount of income allocated under **subsection (2)** relates.

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Business ceasing or owner's death

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

10

15

First formula

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

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

20

Definition of items in formula

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

Σ

- (7) Σ is the symbol for the summation of the amounts calculated using the formula in the brackets that follow that symbol for each of the following classes of each of the beef cattle and dairy cattle types of livestock:

25

- (a) rising 1 year heifers:
- (b) rising 2 year heifers:
- (c) mixed-age cows:
- (d) breeding bulls.

30

Number

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

- (a) the number that is the greater of zero and the number calculated using the formula in **subsection (12)**:
- (b) the number of livestock of that class that are part of the destroyed cattle.

35

- Sale proceeds*
- (9) **Sale proceeds**, for a class of livestock, is the amount of income the person derives as consideration for the disposal of livestock of that class, including their carcasses, that are part of the destroyed cattle. 5
- Compensation*
- (10) **Compensation**, for a class of livestock, is the amount of income the person derives that is compensation to which the person is entitled under section 162A of the Biosecurity Act 1993 and that the person receives by the end of the income year following the cull year, but only to the extent to which that compensation is for— 10
- (a) any excess of the value of the destroyed cattle that belong to that class used in the calculation of that compensation over the amount of income described in **subsection (9)** for that class; and
- (b) any excess of the cost of replacement cattle of the same class that the person acquires and intends be used for breeding over the amount of income that would, in the absence of this paragraph, be described in this subsection. 15
- Culled stock*
- (11) **Culled stock**, for a class of livestock, is the number of livestock of that class that are part of the destroyed cattle. 20
- Second formula*
- (12) The formula referred to in **subsection (8)** is—
valuation method breeding stock + culled stock – opening stock.
- Definition of items in second formula*
- (13) In the formula in **subsection (12)**, for a class of livestock,— 25
- (a) **valuation method breeding stock** is the number of livestock of that class that— 30
- (i) were breeding stock or stock that the person expected to be capable of, and intended be used for, breeding upon reaching maturity; and
- (ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year:
- (b) **culled stock** is the number of the livestock of that class that are part of the destroyed cattle:
- (c) **opening stock** is the number of livestock of that class that the person had on hand at the start of the cull year. 35
- How elections made*
- (14) A person makes an election under **subsection (2)** by notifying the Commissioner,—

- (a) if the cull year is the 2020–21 income year or an earlier income year, by the date of filing their return of income for the 2020–21 income year; or
- (b) in any other case, by the date of filing their return of income for the cull year.
- Elections irrevocable* 5
- (15) An election made under **subsection (2)** cannot be revoked.
When election treated as never having been made
- (16) A person who makes an election under **subsection (2)** is treated as never having made the election if the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person has on hand at the end of the income year following the cull year is less than 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year. 10
Relationship with sections CG 6 and DB 49
- (17) This section overrides sections CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) and DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements). 15
Defined in this Act: amount, business, class, Commissioner, cost price, deduction, income, income year, national standard cost scheme, notify, return of income
- (2) **Subsection (1)** applies for the 2017–18 and later income years. 20
- 34 Section FE 2 amended (When this subpart applies)**
- (1) Replace the heading to section FE 2(4) with “*Association between person and non-resident relative for subsection (1)*”.
- (2) After section FE 2(4), insert: 25
Association between settlor of resident trust and non-resident company or non-resident trust for subsection (1)
- (4B) If a person who is a resident of New Zealand makes a settlement on a trust that is resident in New Zealand, the person is not associated as a consequence, for the purposes of subsection (1)(d)(i), with— 30
- (a) a non-resident company in which the resident has an interest, if the company does not make a settlement on the resident trust:
- (b) a non-resident trust on which the resident makes a settlement, if the non-resident trust does not make a settlement on the resident trust.
- (3) **Subsection (2)** applies for income years beginning on or after the date on which this Act receives the Royal assent. 35
- 35 Section FE 6 amended (Apportionment of interest by excess debt entity)**
- (1) In the heading for section FE 6(2), replace “*Formula*” with “*General formula*”.

- (2) In section FE 6(2), replace “The excess debt entity” with “An excess debt entity having a worldwide group that is not given by section FE 31D”.
- (3) In section FE 6(3), after “formula”, insert “in subsection (2)”.
- (4) After section FE 6(3), insert:
- Formula for excess debt entities with worldwide group given by section FE 31D* 5
- (3B) An excess debt entity having a worldwide group that is given by section FE 31D is treated under section CH 9 as deriving in the income year an amount of income that is the greater of zero and the amount calculated for the income year using the formula— 10
- $$\frac{(\text{related interest} - \text{mismatch} + \text{FRD2}) \times (\text{total debt} - \text{concession})}{\text{total debt} \times (\text{group NZ debt percentage} - 60\%) \div (\text{group NZ debt percentage} - \text{group world debt percentage})}$$
- Definition of items in formula* 15
- (3C) In the formula in **subsection (3B)**,— 15
- (a) **related interest** is the whole amount of the excess debt entity’s interest, incurred under financial arrangements meeting the requirements of section FE 18(3B) for removal of a financial arrangement from the measurement of total group debt for the entity’s worldwide group, that would be allowed, in the absence of subpart FH, as a deduction under any of sections DB 6 to DB 8 less— 20
- (i) the total amount of deductions allowed for interest payable to a company that is a member of the entity’s New Zealand group under sections FE 3 and FE 28 and not included in the amount given by **subparagraph (ii)**; and 25
- (ii) the total amount of deductions allowed for interest payable under a financial arrangement excluded from the total group debt for the entity’s New Zealand group under section FE 15: 30
- (b) **mismatch** is the total of amounts denied as deductions in the income year under section FH 3 as unrecognised amounts under section FH 3(2) and as interest under sections FH 7 and FH 11: 30
- (c) **FRD2** is the total amount of dividends paid by the excess debt entity for fixed-rate foreign equity or fixed-rate shares that—
- (i) are issued by the entity; and
- (ii) are held by a person resident in New Zealand who is not a company that is a member of the entity’s New Zealand group; and 35
- (iii) would be removed under section FE 18(3B) from the measurement of total group debt of the entity’s worldwide group if that provision applied to fixed-rate foreign equity and fixed-rate shares: 40

- (d) **total debt** is the total amount of the debt of the excess debt entity’s New Zealand group for the income year as calculated under section FE 15, before allowing for a reduction under section FE 13:
- (e) **concession** is any reduction allowed under section FE 13 in the total group debt of the excess debt entity’s New Zealand group for the income year, averaged when section FE 8(1)(a) or (b) applies: 5
- (f) **group NZ debt percentage** is the debt percentage of the excess debt entity’s New Zealand group for the income year:
- (g) **group world debt percentage** is the debt percentage of the excess debt entity’s worldwide group for the income year. 10
- (5) In section FE 6(4), replace “subsection (2)” with “subsection (2) or **(3B)**” in each place.
- (6) Replace section FE 6(5), other than the heading, with:
- (5) The amount of income for which the company may make the election under subsection (4), when added to any other income that the company chooses to treat itself as deriving under subsection (4), must not exceed— 15
- (a) the total amount of deductions that the company has for interest in the income year, except if **paragraph (b)** applies; or
- (b) the total amount of the company’s interest, incurred under financial arrangements meeting the requirements of section FE 18(3B), if the excess debt entity has a worldwide group given by section FE 31D. 20
- (7) In section FE 6, list of defined terms, insert “dividend”, “resident in New Zealand”, and “total worldwide debt”.
- 36 Section FE 12 amended (Calculation of debt percentages)**
- In section FE 12(2), after “section FE 5(1)(a)”, insert “or (ab)”. 25
- 37 Section FE 22 amended (Notional offshore investment)**
- In section FE 22(3)(b)(ii), replace “subparagraph (i):” with “subparagraph (i); or”.
- 38 Section GB 20 amended (Arrangements involving petroleum and mineral mining)**
- In section GB 20(1)(a)(ii), replace “**expenditure):**” with “**expenditure);** or”. 30
- 39 Section GC 18 amended (Loan features disregarded by rules for transfer pricing arrangements)**
- (1) In section GC 18(5)(a)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”. 35
- (2) In section GC 18(5)(b)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.

- (3) In section GC 18(7)(c)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (4) In section GC 18(8)(a)(ii), replace “total value of loans” with “total value of loans that are cross-border related borrowing or are” in each place.
- (5) In section GC 18(8)(a)(ii), replace “associated persons and having” with “associated persons, and having” 5
- (6) In section GC 18(8)(b), in the words before the paragraphs, replace “total value of loans” with “total value of loans that are cross-border related borrowing or are”.
- (7) In section GC 18(8)(b), in the words before the paragraphs, replace “associated persons and having” with “associated persons, and having” 10
- (8) In section GC 18(8)(b)(i), replace “total value of loans” with “total value of loans that are cross-border related borrowing or are”.
- (9) In section GC 18(8)(b)(iii), replace “associated persons” with “associated persons excluding cross-border related borrowing” 15
- (10) In section GC 18(9)(a)(ii), replace “associated persons” with “associated persons excluding cross-border related borrowing”.
- (11) In section GC 18(9)(b), in the words before the paragraphs, replace “associated persons” with “associated persons or that are cross-border related borrowing”.
- (12) In section GC 18(9)(b)(iii), replace “associated persons” with “associated persons excluding cross-border related borrowing” 20
- (13) **Subsections (1) to (12)** apply for returns of income filed on or after the introduction of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill.
- 40 New heading and sections GC 20 and GC 21 inserted** 25
- (1) After section GC 19, insert:

Purchase price allocation

GC 20 Effect of agreed purchase price allocation

When this section applies

- (1) This section applies when— 30
- (a) a person (**person A**) disposes of, to another person (**person B**), property (the **purchased property**) to which income or deduction provisions of this Act apply along with other property to which other income or deduction provisions of this Act apply or don’t apply at all; and
- (b) person A and person B have agreed, and recorded in a document, the amount (the **agreed amount**) allocated to the purchase price of the purchased property before the earlier of— 35

(i)	the day person A files a return of income in relation to their tax position for the purchased property:	
(ii)	the day person B files a return of income in relation to their tax position for the purchased property.	
	<i>Agreed amount enforced, at market</i>	5
(2)	The purchased property—	
(a)	is treated as disposed of and acquired for the agreed amount; or	
(b)	may be treated by the Commissioner as disposed of and acquired for an amount that reflects its respective market value in relation to the other property disposed of under subsection (1)(a) , if the Commissioner considers the agreed amount does not reflect that value.	10
	<i>Exception: low value depreciable property</i>	
(3)	Subsection (2)(b) does not apply to purchased property that is an item of depreciable property that, together with other materially identical property disposed of under subsection (1)(a) , has been allocated consideration of less than \$1 million, if—	15
(a)	the agreed amount for the purchased property is equal to or less than the original cost of the purchased property for person A; and	
(b)	the agreed amount for the purchased property is equal to or greater than its adjusted tax value reduced by the amount of depreciation loss person A would have for the property in the year of disposal for the period before the change in ownership of the property (the part-year period) using the relevant depreciation method for the part-year period, pro-rata; and	20
(c)	the adjusted tax value for the purchased property is \$10,000 or less.	25
	Defined in this Act: adjusted tax value, Commissioner, deduction, depreciable property, depreciation loss, dispose, financial arrangement, income, return of income, revenue account property, tax position	
GC 21 Purchase price allocation required		
	<i>When this section applies</i>	
(1)	This section applies when—	30
(a)	a person (person A) disposes of, to another person (person B), property (the purchased property) to which income or deduction provisions of this Act apply along with other property to which other income or deduction provisions of this Act apply or don't apply at all; and	
(b)	person A and person B have not agreed, and recorded in a document, the amount allocated to the purchase price of the purchased property before the earlier of—	35
(i)	the day person A files a return of income in relation to their tax position for the purchased property:	

- (ii) the day person B files a return of income in relation to their tax position for the purchased property.
- Allocated amount: person A*
- (2) Person A must notify both the Commissioner and person B of the amount (the **allocated amount**) allocated by person A to the purchase price of the purchased property within 2 months of the change in ownership of the purchased property. The allocated amount must reflect the purchased property's respective market value in relation to the other property disposed of under **subsection (1)(a)**. 5
- Allocated amount: person B* 10
- (3) If person A fails to comply with **subsection (2)**, person B must notify the Commissioner and person A of the amount (the **allocated amount**) allocated by person B to the purchase price of the purchased property. The allocated amount must reflect the purchased property's respective market value in relation to the other property disposed of under **subsection (1)(a)**. 15
- Allocated amount enforced, at market*
- (4) The purchased property—
- (a) is treated as disposed of and acquired for the allocated amount under **subsection (2) or (3)** as the case may be; or
- (b) may be treated by the Commissioner as disposed of and acquired for an amount that reflects its respective market value in relation to the other property disposed under **subsection (1)(a)**, if the Commissioner considers the relevant amount does not reflect that value. 20
- Exception: de minimis threshold*
- (5) **Subsections (2), (3), and (4)(a)** do not apply if— 25
- (a) the total consideration for all of the property disposed of as described in **subsection (1)(a)** is less than \$1 million; or
- (b) the total consideration allocated by person B for all of the property disposed of as described in **subsection (1)(a)** to which deduction provisions of this Act apply for person B is less than \$100,000. 30
- Exception: low value depreciable property*
- (6) In relation to an allocation under **subsection (2)**, **subsection (4)(b)** does not apply to purchased property that is an item of depreciable property that, together with other materially identical property disposed of under **subsection (1)(a)**, has been allocated consideration of less than \$1 million, if— 35
- (a) the allocated amount is less than the original cost of the purchased property for person A; and
- (b) the allocated amount is equal to or greater than its adjusted tax value reduced by the amount of depreciation loss person A would have for the property in the year of disposal for the period before the change in own- 40

ership of the property (the **part-year period**) using the relevant depreciation method for the part-year period, pro-rata; and

- (c) the adjusted tax value for the purchased property is \$10,000 or less.

No allocated amount

- (7) In the absence of an allocated amount, person A is treated as disposing of the purchased property for an amount that reflects its respective market value in relation to the other property disposed of under **subsection (1)(a)**, and person B is treated as acquiring the purchased property for nil consideration. 5

Allocated amount: person A requirements

- (8) Despite **subsection (2)**, an allocated amount that person A notifies to both the Commissioner and person B under **subsection (2)** must be equal to or greater than— 10

- (a) to the extent to which the purchased property is an item of depreciable property, the amount of the purchased property's adjusted tax value reduced by the amount of depreciation loss person A would have for the purchased property in the year of disposal for the period before the change in ownership of the purchased property (the **part-year period**) using the relevant depreciation method for the part-year period, pro-rata: 15

- (b) to the extent to which the purchased property is revenue account property, the amount of the deduction that person A has for the purchased property at the time of disposal: 20

- (c) to the extent to which the purchased property is a financial arrangement, the amount of consideration that together with all other amounts of consideration would give an amount of income or expenditure under section EW 31 (Base price adjustment formula) equal to the income or expenditure that person A would have for the purchased property in the year of disposal for the period before the change in ownership of the purchased property (the **part-year period**) using the relevant spreading method for the purchased property for the part-year period, pro-rata. 25

Amortised property 30

- (9) Despite **subsections (2) and (3)**, the allocated amount for purchased property to which section DO 4, DO 12, or DP 3 (which relate to amortised property) applies is the diminished value amount for the purchased property under the relevant section. Person A must notify person B of the diminished value amount, and the allocated amount for Person B is nil if Person A fails to notify person B of the diminished value amount. 35

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

- (2) **Subsection (1)** applies for agreements for the disposal and acquisition of property entered into on or after 1 April 2021. 40

- 41 Section HC 10 amended (Complying trusts)**
- (1) After section HC 10(1)(ab), insert:
- (ac) the requirements of paragraph (a) are not met and the distribution meets the requirements of **section HC 30(4)(ab)**; or
- (2) **Subsection (1)** applies for an assessment of a period for which a voluntary disclosure is made before, on, or after 23 March 2020. 5
- 42 Section HC 24 amended (Trustees' obligations)**
- In section HC 24, list of defined terms, delete “cash basis person”.
- 43 Section HC 27 amended (Who is a settlor?)**
- (1) After section HC 27(2)(b), insert: 10
- (bb) is a beneficiary of the trust who is owed money by the trustee and does not meet the requirements of **subsection (6)**:
- (2) Replace the heading to section HC 27(6) with “*Beneficiaries owed money by trustee*”.
- (3) Replace section HC 27(6)(a) with: 15
- (a) the amount owing at the end of the income year is not more than \$25,000:
- (4) In section HC 27(6)(b), before “the trustee pays”, insert “the amount owing at the end of the income year is more than \$25,000 and”.
- (5) After section HC 27(6), insert: 20
- Determining amount owed to beneficiary*
- (7) For the purposes of **subsection (6)**, the amount of money owing to a beneficiary at the end of an income year is the amount of the debt at that time, adjusted to include the effect of transactions that are—
- (a) made after the end of the income year and by the date given for the income year by section HC 6(1B); and 25
- (b) included in the financial statements of the trust for the income year.
- 44 Section HC 30 amended (Treatment of foreign trusts when settlor becomes resident)**
- (1) Replace section HC 30(4)(b) with: 30
- (ab) as a complying trust to the extent to which the distribution consists of an amount derived by the trustee that gives rise on or after the transition date to an income tax liability meeting the requirements of **subsection (4B)**:
- (b) as a non-complying trust to the extent to which the distribution consists of an amount derived by the trustee that gives rise on or after the transi- 35

- tion date to an income tax liability that is not satisfied before the distribution is made.
- (2) In **section HC 30(4)(ab)**, after “subsection (4B)”, insert “or section HC 10(1)(ab)”.
- (3) After section HC 30(4), insert: 5
- Tax shortfall voluntarily disclosed*
- (4B) An income tax liability meets the requirements of this subsection if—
- (a) the income tax liability is satisfied before the distribution is made, other than for the trust as a complying trust under an election under section HC 33; and 10
- (b) the income tax liability gives rise to a tax shortfall for the trustee for an income year ending before the distribution is made; and
- (c) where a shortfall penalty arises for the tax shortfall, the shortfall penalty is satisfied before the distribution is made.
- (4) **Subsections (1) and (3)** apply for an assessment of a period for which a voluntary disclosure is made before, on, or after 23 March 2020. 15
- (5) **Subsection (2)** applies for income years for which an election under section HC 33 is made on or after 23 March 2020
- 45 Section LY 5 amended (Eligible research and development expenditure)**
- (1) Replace section LY 5(1)(a) with: 20
- (a) means expenditure or loss, described in schedule 21B, part A, if, for the income year, the expenditure or loss—
- (i) directly relates to a research and development activity; and
- (ii) is required for a research and development activity; and
- (iii) is integral to a research and development activity; but 25
- (2) **Subsection (1)** applies for the 2019–20 and later income years.
- 46 Section MD 12 amended (Calculation of parental tax credit)**
- Repeal section MD 12(4).
- 47 Section MF 7 amended (Orders in Council)**
- (1) Repeal section MF 7(1)(c). 30
- (2) In the heading to section MF 7(4), delete “*and parental tax credit*”.
- (3) In section MF 7(4), delete “and the parental tax credit”.
- (4) In section MF 7, list of defined terms, delete “parental tax credit”.

48 Section OB 52 replaced (ICA imputation credit of consolidated imputation group)

- (1) Replace section OB 52 with:

OB 52 ICA transfer to consolidated imputation group*When this section applies*

5

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

Debit

- (2) The group company has an imputation debit for the amount of the credit balance that is transferred to the imputation credit account of the consolidated imputation group. 10

Table reference

- (3) The imputation debit in
- subsection (2)**
- is referred to in table O2: imputation debits, row 25 (transfer to consolidated imputation group's ICA). 15

Debit date

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

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, nominated company 20

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

49 Table O2 amended (Imputation debits)

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

25	Amount of credit balance transferred to consolidated imputation group's ICA	credit date for group's imputation credit	section OB 52
----	---	---	---------------

- (2)
- Subsection (1)**
- applies for the 2008–09 and later income years. 25

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

- (1) Replace section OP 22 with:

OP 22 Consolidated ICA transfer from group company's ICA*When this section applies*

- (1) This section applies when— 30

- (a) the imputation credit account of a consolidated imputation group has an imputation debit described in a row of table O20: imputation debits of consolidated imputation groups; and
- (b) the imputation credit account of a group company has a credit balance; and 5
- (c) the credit balance referred to in **paragraph (b)** existed before the debit referred to in **paragraph (a)** arose in the imputation credit account of the group.
- Election*
- (2) The nominated company of the consolidated imputation group may choose to transfer some or all of the credit balance in the imputation credit account of the group company to the imputation credit account of the group. 10
- Restrictions*
- (3) The following restrictions apply to a transfer under **subsection (2)**:
- (a) the consolidated imputation group and the group company must meet the requirements of section OA 8 (Shareholder continuity requirements for memorandum accounts) for the carrying forward of imputation credits until the end of the day on which the debit referred to in **subsection (1)(a)** arises in the imputation credit account of the group: 15
- (b) credits in the imputation credit accounts of the group and all group companies must be used to reduce the debit referred to in **subsection (1)(a)** in the order in which the credits arose: 20
- (c) the total amount of the credit balances in the imputation credit accounts of companies in the group referred to in **subsection (1)(a)** that may be transferred to the imputation credit account of the group is limited to the amount of the imputation debit referred to in that paragraph. 25
- How elections made*
- (4) The nominated company makes an election under **subsection (2)** by recording the amount of the credit balance that it chooses to transfer as—
- (a) a debit in the group company’s imputation credit account; and 30
- (b) a credit in the group’s imputation credit account.
- Credit*
- (5) When the nominated company makes an election under **subsection (2)** for a group company, the consolidated imputation group has an imputation credit for the amount of the credit balance transferred. 35
- Table reference*
- (6) The imputation credit in **subsection (5)** is referred to in table O19: imputation credits of consolidated imputation groups, row 17 (transfer from group company’s ICA).

	<i>Credit date</i>	
(7)	The credit date is the same as the debit date for the debit referred to in subsection (1)(a) . Defined in this Act: amount, company, consolidated imputation group, imputation credit, imputation credit account, imputation debit, nominated company	5
(2)	Subsection (1) applies for the 2008–09 and later income years.	
51	Table O19 amended (Imputation credits of consolidated imputation groups)	
(1)	In table O19, row 17, second column, replace “Group company’s credit” with “Amount of credit balance transferred from group company’s ICA”.	10
(2)	Subsection (1) applies for the 2008–09 and later income years.	
52	Section RA 1 amended (What this Part does)	
	After section RA 1(gb), insert:	
	(gc) the payment of residential land withholding tax (RWLT), <i>see</i> subpart RL; and	15
53	Section RC 5 amended (Methods for calculating provisional tax liability)	
(1)	In section RC 5(8), replace “life insurance rules” with “rules for life insurers”.	
(2)	In section RC 5, list of defined terms, delete “life insurance rules”.	
54	Section RD 24 amended (Exemptions for non-resident contractors)	
(1)	In section RD 24(1)(a), replace “income” with “assessable income”.	20
(2)	In section RD 24, list of defined terms, delete “income” and insert “assessable income”.	
55	Section RE 2 amended (Resident passive income)	
(1)	Replace section RE 2(5)(b) with:	
	(b) an amount—	25
	(i) of an association rebate that is excluded from being a dividend by section CB 34(5)(a) (Amounts derived by members from mutual associations); or	
	(ii) that is payable to a person by a company and is treated as being a dividend by sections GB 23 to GB 25 (which relate to excessive remuneration):	30
(2)	In section RE 2, list of defined terms, insert “association rebate”.	
(3)	Subsection (1) applies for the 2008–09 and later income years.	

- 56 Section RE 10C amended (Obligations of custodial institutions in relation to certain payments of investment income)**
- (1) In section RE 10C(3) replace “RWT” with “the amount of tax”.
 - (2) Replace section RE 10C(6)(b) with:
 - (b) whose activities are supervised or regulated under the Financial Markets Conduct Act 2013, the Financial Markets Authority Act 2011, the Financial Advisers Act 2008, or the Reserve Bank of New Zealand Act 1989, or are supervised or regulated under corresponding legislation in another jurisdiction. 5
- 57 Section RF 2C amended (Meaning of non-resident financial arrangement income)** 10
- (1) Replace section RF 2C(6)(a) with:
 - (a) the item **accumulated accruals** is equal to the item **hybrid deductions**:
 - (2) **Subsection (1)** applies for income years beginning on or after 1 July 2018.
- 58 Section YA 1 amended (Definitions)** 15
- (1) This section amends section YA 1.
 - (2) In the definition of **annual branch equivalent tax account return**, replace “by a company under sections 77 and 78” with “under section 78”.
 - (3) Replace the definition of **Australian complying superannuation scheme** with: 20

Australian complying superannuation scheme means—

 - (a) an entity that is a complying superannuation fund for the purposes of Part 5, Division 2 of the Superannuation Industry (Supervision) Act 1993 (Aust) and that is regulated by the Australian Prudential Regulation Authority: 25
 - (b) the Australian Commissioner of Tax (**ACT**), in the ACT’s capacity under the Superannuation (Unclaimed Money and Lost Members) Act 1999 (Aust)
 - (4) In the definition of **business premises**, after “expenditure)”, add “and the land sales provisions”. 30
 - (5) In the definition of **claim**, replace “life insurance rules” with “rules for life insurers”.
 - (6) In the definition of **dispose**, after paragraph (h), insert:
 - (i) in **sections GC 20 and GC 21** (which relate to purchase price allocation) includes all events in paragraphs (a) to (h) of this definition and the grant, amendment, or transfer of a property right or interest 35
 - (7) In the definition of **dividend**, paragraph (e),—

- (a) replace “treated as a dividend under section CB 34(5),” with “excluded from being a dividend under section CB 34(5) (Amounts derived by members from mutual associations) or treated as a dividend under section”:
- (b) replace “mutual associations, family-owned businesses,” with “family-owned businesses” 5
- (8) In the definition of **early life regime application day**, replace “the new life insurance rules, as provided in” with “the amendments to the rules for life insurers made by”.
- (9) Replace the definition of **group of persons** with: 10
- group of persons**—
- (a) includes 1 person:
- (b) is defined in **section CB 16A(2C)** (Main home exclusion for disposal within 5 years) for the purposes of that section:
- (c) is defined in **section CB 16(5)** (Residential exclusion from sections CB 6 to CB 11) for the purposes of that section: 15
- (d) is defined in **section CB 19(2C)** (Business exclusion from sections CB 6 to CB 11) for the purposes of that section
- (10) In the definition of **lease**, paragraph (d), replace “EJ 10 (Personal property lease payments)” with “EJ 10 (Personal property lease payments), **EJ 10B** (IFRS leases)” 20
- (11) Repeal the definition of **NZIAS 17**.
- (12) Insert, in appropriate alphabetical order:
- NZ IFRS 16** means New Zealand Equivalent to International Financial Reporting Standard 16, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place 25
- (13) Repeal the definition of **specified living allowance**.
- (14) **Subsection (7)** applies for the 2008–09 and later income years.
- 59 Schedule 21 amended (Excluded activities for research and development activities tax credits)** 30
- (1) Replace schedule 21, part A, clause 5 with:
- 5 Prospecting for, exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy, and development activities relating to prospecting for, exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy. 35
- (2) Replace schedule 21, part B, clause 5 with:
- 5 Prospecting for, exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy and development activities relating to prospecting for,

	exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy.	
(3)	Subsections (1) and (2) apply for the 2019–20 and later income years.	
60	Schedule 21B amended (Expenditure or loss for research and development tax credits)	5
(1)	After schedule 21B, part B, clause 2, insert:	
2B	Expenditure or loss incurred in acquiring property that would be depreciable property in the absence of an election under section EE 8.	
(2)	Replace schedule 21B, part B, clause 3 with:	
3	Expenditure or loss, other than amounts for employees in relation to core research and development activities, to the extent to which the expenditure or loss contributes to the cost of tangible depreciable property, unless the property is used solely in performing a research and development activity, is intended to be used in the future solely in performing a research and development activity, and the expenditure or loss is for a core research and development activity.	10
(3)	Replace schedule 21B, part B, clause 10 with:	
10	Expenditure or loss to acquire land.	
(4)	In schedule 21B, part B, clause 13, replace “Professional fees” with “Expenditure or loss”.	
(5)	After schedule 21B, part B, clause 13, insert:	20
13B	Expenditure or loss incurred in performing corporate governance activities.	
(6)	After schedule 21B, part B, clause 20, insert:	
20B	Expenditure or loss incurred in decommissioning.	
20C	Expenditure or loss incurred in remediating land.	
(7)	Subsections (1), (2), (3), (4), (5), and (6) apply for the 2019–20 and later income years.	25
61	Schedule 29 amended (Portfolio investment entities: listed investors)	
(1)	In schedule 29, part A, repeal item 7B.	
(2)	In schedule 29, part A, after item 9, insert:	
11	A lines trust.	30
12	A company in which a local authority or a lines trust holds—	
	(a) a voting interest of 100%; and	
	(b) if a market value circumstance exists for the company, a market value interest of 100%.	

- 62 Schedule 32 amended (Recipients of charitable or other public benefit gifts)**
- (1) In schedule 32, insert, in appropriate alphabetical order, “Active Hearts Foundation”, “Kiwilink”, and “Shimshal Trust”.
- (2) **Subsection (1)** applies for the 2020–21 and later income years. 5
- 63 Schedule 36 amended (Government enterprises)**
- In schedule 36, part A, insert, in appropriate alphabetical order, “Housing New Zealand Build Limited”.
- 64 Income Tax Act 2007: aligning nomenclature with Social Security Act 2018**
- The Income Tax Act 2007 is amended as set out in **schedule 1**. 10
- 65 Other enactments: consequential amendments aligning nomenclature**
- The enactments specified in **schedule 2** are amended as set out in that schedule.

Part 3

Amendments to other enactments 15

Tax Administration Act 1994

- 66 Tax Administration Act 1994**
- Sections 67 to 84** amend the Tax Administration Act 1994.
- 67 Section 3 amended (Interpretation)**
- (1) This section amends section 3(1). 20
- (2) In the definition of **deferrable tax**,—
- (a) in paragraph (c), replace “2007” with “2007:”;
- (b) after paragraph (c), insert:
- (d) an amount of tax for which the person’s liability depends on the liability of another person (the **disputant**) for an amount of tax and the disputant has a current dispute with the Commissioner concerning the disputant’s liability after making a competent objection or challenge that meets the requirements of paragraph (a) or (b) for the disputant or entering an agreement with the Commissioner referred to in section RP 17B(3)(bb) of the Income Tax Act 2007 25
- (3) Insert, in appropriate alphabetical order:
- New Zealand superannuation qualification age** means the age at which a person becomes entitled to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001 30

- (4) In the definition of **tax**,—
- (a) replace paragraph (a)(iii)(CC) with:
(CC) KiwiSaver Act 2006 employer contributions:
 - (b) in paragraph (a)(iii)(CD), replace “101I(5)” with “141(5)”:
 - (c) repeal paragraph (a)(viii). 5
- 68 Section 4A amended (Construction of certain provisions)**
- Replace section 4A(3)(bc) with:
- (bc) amounts of KiwiSaver Act 2006 employer contributions paid or to be paid to the Commissioner, including an amount of compulsory employer contributions unpaid, specified in a notice under section 141(5) of that Act; or 10
- 69 Section 17C amended (Commissioner’s powers in relation to documents)**
- (1) In section 17C(1), replace “provided under section 17B or 17G, or produced under section 17H” with “or produced under 1 or more of sections 17B, 17H(6), and 17I”. 15
 - (2) In section 17C(5), replace “provided” with “produced”.
- 70 Section 25E amended (Who must provide investment income information to Commissioner)**
- (1) In section 25E(1)(f), delete “, other than a superannuation fund or retirement savings scheme,”. 20
 - (2) Repeal section 25E(1)(g).
- 71 Section 25J amended (Information on attributed PIE income: non-locked-in funds)**
- In section 25J, replace the section heading with “**Information on attributed PIE income**”. 25
- 72 Section 25K repealed (Information on attributed PIE income; locked-in funds)**
- Repeal section 25K.
- 73 Section 25MB amended (Information from custodial institutions)**
- Replace section 25MB(7)(b) with: 30
- (b) whose activities are supervised or regulated under the Financial Markets Conduct Act 2013, the Financial Markets Authority Act 2011, the Financial Advisers Act 2008, or the Reserve Bank of New Zealand Act 1989, or are supervised or regulated under corresponding legislation in another jurisdiction. 35

- 74 Section 57B amended (Return requirements for multi-rate PIEs)**
- (1) In section 57B(1), replace “Sections 25J and 25K set out” with “Section 25J sets out”.
- (2) In section 57B(2)(a)(ii), replace “required under sections 25J and 25K, as applicable” with “required under section 25J”. 5
- 75 Section 61 amended (Disclosure of interest in foreign company or foreign investment fund)**
- In section 61(1C), replace “section 25J or 25K, as applicable” with “section 25J”.
- 76 Section 68CC amended (Research and development tax credits: greater than \$2 million approval)** 10
- (1) In section 68CC(3), replace “7th day of the 2nd month before the end of the first income year” with “last day of the 6th month before the end of the first income year”.
- (2) **Subsection (1)** applies for the 2021–22 and later income years. 15
- 77 Section 89D amended (Taxpayers and others with standing may issue notices of proposed adjustment)**
- (1) In section 89D(1), replace “subsection (2)” with “**subsection (1B)** and (2)”.
- (2) After section 89D(1), insert:
- (1B) If the assessment by the Commissioner is an amended assessment, the taxpayer’s entitlement to dispute the assessment is limited to disputing— 20
- (a) a liability imposed by the assessment that was not imposed by the assessment being amended:
- (b) an increase imposed by the assessment in a liability that was imposed by the assessment being amended. 25
- 78 Section 89DA amended (Taxpayer may issue notice of proposed adjustment for taxpayer assessment)**
- After section 89DA(1), insert:
- (1B) If the assessment by the taxpayer is an amended assessment, the taxpayer’s entitlement to dispute the assessment is limited to disputing— 30
- (a) a liability imposed by the assessment that was not imposed by the assessment being amended:
- (b) an increase imposed by the assessment in a liability that was imposed by the assessment being amended.
- 79 Section 108 amended (Time bar for amendment of income tax assessment)** 35
- Replace section 108(1E) with:

- (1E) Despite subsection (1), the Commissioner may not amend an assessment so as to increase an amount of research and development tax credit if 1 year has passed from the latest date to provide a return of income for the relevant tax year, except if the increase is to take into account—
- (a) a notice of proposed adjustment initiated by a taxpayer in accordance with section 113E: 5
 - (b) a request under section 113 initiated by a taxpayer in accordance with section 113E.
- 80 Section 120B amended (Persons excluded)**
- In section 120B, replace paragraph (bb) with: 10
- (bb) an amount of compulsory employer contributions unpaid, specified in a notice under section 141(5) of the KiwiSaver Act 2006:
- 81 Section 139A amended (Late filing penalty for certain returns)**
- (1) In section 139A(1), delete “the reconciliation statement required to be provided under regulation 3 of the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992 or regulation 15 of the Accident Insurance (Premium Payment Procedures) Regulations 1999 or any successor to that regulation made under the Accident Compensation Act 2001,”. 15
 - (2) Repeal section 139A(2)(a)(iii).
- 82 Section 139AB amended (Penalty for member of large multinational group failing to provide information)** 20
- In section 139AB(1)(a), replace “section 17(1CB)” with “section 17E(2)”.
- 83 Section 157 amended (Deduction of tax from payments due to defaulters)**
- (1) In section 157(10), definition of **income tax**, paragraph (i), replace “101I(5)” with “141(5)”. 25
 - (2) After section 157(10), definition of **income tax**, paragraph (i), insert:
 - (j) KiwiSaver Act 2006 employer contributions
- 84 Schedule 8 amended (Reporting of income information by individuals and treatment of certain amounts)**
- (1) After schedule 8, part B, clause 1(a), insert: 30
 - (ab) an amount of tax that—
 - (i) relates to reportable income derived for a tax year by an individual who uses a tailored tax code; and
 - (ii) is derived solely from a payment of New Zealand superannuation or a veteran’s pension; and 35
 - (iii) is equal to or less than \$50:

- (ac) an amount of tax that, for a tax year in which an individual who uses a tailored tax code reaches the New Zealand superannuation qualification age,—
- (i) relates to income derived from 1 or more of the amounts described in paragraph (b); and 5
- (ii) is equal to or less than \$50:
- (2) **Subsection (1)** applies for the 2020–21 and later income years.
- Goods and Services Tax Act 1985***
- 85 Goods and Services Tax Act 1985**
- Sections 86 to 91** amend the Goods and Services Tax Act 1985. 10
- 86 Section 2 amended (Interpretation)**
- Insert in section 2(1), in appropriate alphabetical order:
- mobile roaming services—**
- (a) means mobile telecommunications services supplied to the mobile device of a person who is outside the country of their usual mobile network as determined by the country code of the subscriber identity module for the person’s mobile device; and 15
- (b) includes services supplied to enable a person to receive mobile telecommunications services when the person is outside the country of their usual mobile network determined as described in **paragraph (a)**; and 20
- (c) are services that are classified as—
- (i) inbound mobile roaming services when the services are received by a person who is in New Zealand and whose usual mobile network determined as described in **paragraph (a)** is outside New Zealand; or 25
- (ii) outbound mobile roaming services when the services are received by a person whose usual mobile network determined as described in **paragraph (a)** is in New Zealand
- 87 Section 8 amended (Imposition of goods and services tax on supply)**
- (1) Replace section 8(7) with: 30
- (7) Subsection (6) does not apply to—
- (a) supplies made between telecommunications suppliers;
- (b) inbound mobile roaming services supplied to a non-resident person.
- (2) After section 8(8), insert:
- (8B) Despite subsection (6) but subject to subsection (8), a supply of telecommunications services is treated as being supplied in New Zealand if— 35

<ul style="list-style-type: none"> (a) the services are outbound mobile roaming services supplied by a non-resident; and (b) the recipient of the supply is outside New Zealand when the services are supplied. 	5
88 Section 11 amended (Zero-rating of goods)	5
(1) In section 11(8D)(a),—	
(a) replace “a supply that is” with “a supply that wholly or partly consists of”;	
(b) delete “and paragraph (b) does not apply”.	
(2) In section 11(8D)(ab), replace “a supply that is” with “a supply that wholly or partly consists of”.	10
(3) In section 11(8D)(b), words before subparagraph (i), replace “a supply of an interest” with “a supply that is wholly or partly of an interest”.	
(4) In section 11(8D)(c)(ii),—	
(a) replace “an arrangement that involves” with “an arrangement that wholly or partly consists of”.	15
(b) after “to the lessor”, insert “, or the lessor’s cancellation of the supply of the interest in land to the lessee,”.	
(5) Subsections (1) to (4) apply to a supply made by a person on or after 30 June 2014, except for a supply for which the person takes a tax position—	20
(a) in the period beginning with 30 June 2014 and ending before the date in which this Act receives the Royal assent; and	
(b) that is inconsistent with the amendments made by subsections (1) to (4) .	
89 Section 11AB amended (Zero-rating of telecommunications services)	25
(1) In section 11AB(b), replace “under section 8(9).” with “under section 8(9); or”, and insert:	
(c) the services are inbound mobile roaming services supplied to a non-resident.	
(2) After section 11AB(c), insert:	30
(2) Subsection (1)(b) does not apply to outbound mobile roaming services.	
90 Section 25 amended (Credit and debit notes)	
(1) After section 25(1)(aa), insert:	
(aaa) section 8(1) was incorrectly applied to the treatment of the supply, so that the supply was charged with tax at the rate of 15% when it should have been—	35
(i) charged with tax at the rate of 0%; or	

- (ii) an exempt supply; or
- (2) Replace section 25(3)(f) with:
- (f) a credit note in relation to a supply may not be issued after the earlier of the following, as applicable:
- (i) in the case of a supply to which subsection (1)(ab) applies, 7 years from the date of settlement of the transaction relating to the supply: 5
- (ii) 4 years from the end of the 4-year period referred to in the relevant subsection of section 45, in the case of a supply that results in an overpayment of tax that is— 10
- (A) referred to in section 45(1), (2), or (3); and
- (B) the result of a clear mistake or simple oversight of the supplier:
- (iii) in the case of a supply other than a supply described in **subparagraph (ii)**, 4 years from the end of the taxable period in which the return was provided by the supplier for the taxable period in which the supply was made. 15
- (3) In section 25(4), replace “paragraphs (a), (aa), (ab)” with “paragraphs (a), (aa), **(aaa)**, (ab)”.
- 91 Section 51 amended (Persons making supplies in course of taxable activity to be registered)** 20
- Repeal section 51(1)(e).

Student Loan Scheme Act 2011

- 92 Section 34 amended (Repayment codes for New Zealand-based borrowers who derive salary or wages)** 25
- In section 34(2) of the Student Loan Scheme Act 2011, words before paragraph (a), replace “STC” with “TTC”.

KiwiSaver Act 2006

- 93 Section 4 amended (Interpretation)**
- (1) This section amends section 4(1) of the KiwiSaver Act 2006. 30
- (2) Replace the definition of **Australian complying superannuation scheme** with:
- Australian complying superannuation scheme** means—
- (a) an entity that is a complying superannuation fund for the purposes of Part 5, Division 2 of the Superannuation Industry (Supervision) Act 1993 (Aust) and that is regulated by the Australian Prudential Regulation Authority: 35

- (b) the Australian Commissioner of Tax (**ACT**), in the ACT’s capacity under the Superannuation (Unclaimed Money and Lost Members) Act 1999 (Aust)
- (3) In the definition of **KiwiSaver status**, replace “contribution holiday” with “savings suspension”. 5

Companies Act 1993

94 Section 53 amended (Dividends)

In section 53(2)(a) of the Companies Act 1993, replace “for a portfolio tax rate entity, as a result of section HL 7 of the Income Tax Act 2004” with “for a multi-rate PIE, as a result of section HM 48 of the Income Tax Act 2007”. 10

Land Transfer Act 2017

95 Land Transfer Act 2017

Sections 96 to 100 amend the Land Transfer Act 2017.

96 Section 77 amended (Interpretation)

- (1) In section 77(1), repeal the definition of **tax information**. 15
- (2) In section 77(1), insert in their appropriate alphabetical order:

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

tax information means the information specified in a tax statement in accordance with **section 79(1)(a)** and (if applicable) section 80 20

97 Section 79 replaced (Content of tax statement)

Replace section 79 with:

79 Content of tax statement

- (1) A tax statement must— 25
- (a) contain the prescribed information; and
 - (b) be completed by or on behalf of the transferor or transferee; and
 - (c) be signed by the transferor or transferee.
- (2) If the prescribed information includes the transferor’s or transferee’s IRD number and they do not have one, they must request an IRD number for the purpose of providing that information. 30

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

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

- (2) In section 83, insert as subsection (2):
- (2) In this section, **identifying information** means any of the following (if it is part of the prescribed tax information):
- (a) a person’s name:
 - (b) a person’s IRD number: 5
 - (c) a person’s number in another jurisdiction that is equivalent to an IRD number:
 - (d) any other tax information declared to be identifying information by regulations made under this Act.
- 99 Section 227 amended (Regulations) 10**
- (1) In section 227(1)(3), after “record,”, insert “statement,”.
- (2) After section 227(1)(27), insert:
- (27A) declaring tax information to be identifying information for the purposes of section 83:
- 100 Schedule 1 amended 15**
- In schedule 1, after clause 14, insert:

Part 3

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

- 15 Content of tax statements before regulations are made prescribing content 20**
- (1) This clause applies from the 2020 commencement date until the first regulations prescribing information for the purposes of new **section 79(1)(a)** come into force.
- (2) The information required by section 79 (as in force before the 2020 commencement date) to be included in a tax statement is taken to be the information required to be included in a tax statement under new **section 79(1)(a)** as if it were information prescribed in regulations made for the purposes of new **section 79(1)(a)**. 25
- (3) In this clause,—
- 2020 commencement date** means the date on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act **2020** receives the Royal assent 30
- new section 79(1)(a)** means **section 79(1)(a)** as inserted by the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act **2020**. 35

*Taxation (Disclosure of Information to Approved Credit Reporting Agencies)
Regulations 2017*

101 Regulation 3 amended (Reportable unpaid tax threshold)

In regulation 3 of the Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017, replace “section 85N(2)(d)(i)” with “clause 33(3)(d)(i) of schedule 7”. 5

Schedule 1
**Income Tax Act 2007: aligning nomenclature with Social Security
Act 2018**

s 64

Section CF 1 amended (Benefits, pensions, compensation, and government grants)	5
Replace section CF 1(1)(c) with:	
(c) a payment of a main benefit:	
In section CF 1, list of defined terms, delete “income-tested benefit”.	
In section CF 1, list of defined terms, insert “main benefit”.	10
Section CW 33 amended (Allowances and benefits)	
Replace section CW 33(1)(a)(i) with:	
(i) a payment of a main benefit:	
In section CW 33, list of defined terms, delete “income-tested benefit”.	
In section CW 33, list of defined terms, insert “main benefit”.	15
Section LC 13 amended (Tax credits for independent earners)	
In section LC 13(1)(a), replace “an income-tested benefit” with “a main benefit”.	
In section LC 13, list of defined terms, delete “income-tested benefit”.	
In section LC 13, list of defined terms, insert “main benefit”.	
Section MA 8 amended (Some definitions for family scheme)	20
In section MA 8, definition of social assistance payment , replace paragraph (a) with:	
(a) a main benefit; or	
In section MA 8, list of defined terms, delete “income-tested benefit”.	
In section MA 8, list of defined terms, insert “main benefit”.	
Section MB 1 amended (Adjustments for calculation of family scheme income)	25
In section MB 1(1)(b), replace “an income-tested benefit” with “a main benefit”.	
In section MB 1, list of defined terms, delete “income-tested benefit”.	
In section MB 1, list of defined terms, insert “main benefit”.	
Section MC 6 amended (When person does not qualify)	
Replace section MC 6(b)(i) with:	30
(i) a main benefit; or	
In section MC 6, list of defined terms, delete “income-tested benefit”.	
In section MC 6, list of defined terms, insert “main benefit”.	

Section MD 8 amended (Fourth requirement: person not receiving benefit)

Replace section MD 8(a) with:

(a) a main benefit; or

In section MD 8, list of defined terms, delete “income-tested benefit”.

In section MD 8, list of defined terms, insert “main benefit”.

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Section MD 11 amended (Entitlement to parental tax credit)

In section MD 11(1)(b), replace “an income-tested benefit” with “a main benefit”.

In section MD 11(6)(b)(ii), replace “an income-tested benefit” with “a main benefit”.

In section MD 11, list of defined terms, delete “income-tested benefit”.

In section MD 11, list of defined terms, insert “main benefit”.

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Section MD 14 amended (Person receiving protected family tax credit)

In section MD 14(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section MD 14(1)(b), replace “an income-tested benefit” with “a main benefit”.

In section MD 14, list of defined terms, delete “income-tested benefit”.

In section MD 14, list of defined terms, insert “main benefit”.

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Section MF 2 amended (When person not entitled to payment by instalment)

In section MF 2(1)(a)(i), replace “an income-tested benefit” with “a main benefit”.

In section MF 2(1)(a)(ii), replace “an income-tested benefit” with “a main benefit”.

In section MF 2, list of defined terms, delete “income-tested benefit”.

In section MF 2, list of defined terms, insert “main benefit”.

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Section MG 3 amended (Best Start credit abatement)

In section MG 3, list of defined terms, delete “income-tested benefit”.

Section MG 4 amended (Person receiving protected Best Start tax credit)

In section MG 4(1)(a), replace “an income-tested benefit” with “a main benefit”.

In section MG 4(1)(b), replace “an income-tested benefit” with “a main benefit”.

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In section MG 4, list of defined terms, delete “income-tested benefit”.

In section MG 4, list of defined terms, insert “main benefit”.

Section MZ 2 amended (Calculation of child tax credit)

In section MZ 2(3)(b), replace “an income-tested benefit” with “a main benefit”.

In section MZ 2, list of defined terms, delete “income-tested benefit”.

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In section MZ 2, list of defined terms, insert “main benefit”.

Section RD 5 amended (Salary or wages)

Replace section RD 5(6)(b) with:

(b) a main benefit:

In section RD 5, list of defined terms, delete “income-tested benefit”.

In section RD 5, list of defined terms, insert “main benefit”. 5

Section RD 11 amended (Reduction in certain circumstances)

In the heading to section RD 11(3), replace “*Income-tested benefits*” with “*Main benefits*”.

In section RD 11(3), replace “an income-tested benefit” with “a main benefit”.

In section RD 11, list of defined terms, delete “income-tested benefit”. 10

In section RD 11, list of defined terms, insert “main benefit”.

Section YA 1 amended (Definitions)

In section YA 1, repeal the definition of “**income-tested benefit**”.

In section YA 1, insert, in appropriate alphabetical order:

main benefit means any of the following: 15

(a) a main benefit, as defined in **paragraph (a)** of the definition of **main benefit** in schedule 2 of the Social Security Act 2018:

(b) main benefit equivalent assistance

In section YA 1, definition of **main benefit equivalent assistance**, paragraph (a), replace “defined” with “defined in **paragraph (a)** of the definition of **main benefit**”. 20

Schedule 2
**Other enactments: consequential amendments aligning
nomenclature**

s 65

Part 1
Amendments to other Acts

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Accident Compensation Act 2001 (2001 No 49)

In section 11(1)(a), replace “income-tested benefit” with “main benefit”.

In section 11(2), replace “**income-tested benefit**” with “**main benefit**”.

Social Security Act 2018 (2018 No 32)

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In section 349, repeal the definition of “**income-tested benefit**”.

In section 349, insert, in appropriate alphabetical order:

main benefit means any of the following:

- (a) a main benefit as defined in section YA 1 of the Income Tax Act 2007;
- (b) an income-tested benefit, as that term is defined in whichever of the following apply:
 - (i) section 2 of the Income Tax Act 1976; or
 - (ii) section OB 1 of the Income Tax Act 1994; or
 - (iii) section OB 1 of the Income Tax Act 2004

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In the heading to section 350, replace “**income-tested benefit**” with “**main benefit**”.

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In section 350(1), replace “an income-tested benefit” with “a main benefit”.

In section 352(1), replace “an income-tested benefit” with “a main benefit”.

In schedule 2, repeal the definition of “**income-tested benefit**”.

In schedule 2, replace the definition of “**main benefit under this Act or main benefit**” with:

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main benefit under this Act or main benefit,—

- (a) means a benefit under this Act that is—
 - (i) jobseeker support; or
 - (ii) sole parent support; or
 - (iii) a supported living payment on the ground of restricted work capacity or total blindness, under section 34; or
 - (iv) a supported living payment on the ground of caring for another person, under section 40; or
 - (v) a youth payment; or

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Social Security Act 2018 (2018 No 32)—*continued*

- (vi) a young parent payment; or
 - (vii) an emergency benefit:
- (b) is defined in section 349 for the purposes of sections 349 to 352

Student Loan Scheme Act 2011 (2011 No 62)

- In the heading to section 40, replace “**income-tested benefits**” with “**main benefits**”. 5
- In section 40(1)(a), replace “an income-tested benefit” with “a main benefit”.
- In section 40(1)(b), replace “income-tested benefit” with “main benefit”.
- In section 40(2)(a), replace “income-tested benefit” with “main benefit”.
- In section 40(2)(b), replace “income-tested benefit” with “main benefit”.
- In section 40(4), definition of **equivalent gross amount**, paragraph (a), replace “an income-tested benefit” with “a main benefit”. 10
- In section 40(4), definition of **equivalent gross amount**, paragraph (b), replace “income-tested benefit” with “main benefit”.
- In section 40(4), repeal the definition of **income-tested benefit**.
- In section 40(4), insert, in appropriate alphabetical order: 15
- main benefit** has the same meaning as in section YA 1 of the Income Tax Act 2007.

Tax Administration Act 1994 (1994 No 166)

- In the heading to section 24B(3), replace “*Income-tested benefits*” with “*Main benefits*”. 20
- In section 24B(3), replace “an income-tested benefit” with “a main benefit”.
- In section 80KK(3)(a)(i), replace “an income-tested benefit” with “a main benefit”.
- In section 80KN(1)(a), replace “an income-tested benefit” with “a main benefit”.
- In section 80KN(2), replace “income-tested benefit” with “main benefit”.
- In the heading to section 80KP, replace “**income-tested benefit**” with “**main benefit**”. 25
- In section 80KP(1)(a), replace “an income-tested benefit” with “a main benefit”.
- In section 80KP(2), replace “an income-tested benefit” with “a main benefit”.
- In section 80KU(1)(a), replace “an income-tested benefit” with “a main benefit”.
- In section 225A(1)(a), replace “an income-tested benefit” with “a main benefit”. 30
- In section 225A(2)(a), replace “an income-tested benefit” with “a main benefit”.
- In section 225A(2)(b), words before the subparagraphs, replace “an income-tested benefit” with “a main benefit”.
- In section 225A(2)(b)(i), replace “income-tested benefit” with “main benefit”.

Tax Administration Act 1994 (1994 No 166)—*continued*

In section 225A(2)(b)(ii), replace “income-tested benefit” with “main benefit”.

In schedule 5, part A, clause 1(3), replace “an income-tested benefit” with “a main benefit” in each place.

In schedule 8, part B, replace clause 1(b)(i) with:

- (i) a main benefit:

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Part 2

Amendments to legislative instrument

**Public and Community Housing Management (Prescribed Elements of
Calculation Mechanism) Regulations 2018 (LI 2018/173)**

In regulation 3(1), revoke the definition of “**income-tested benefit**”.

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In regulation 3(1), insert, in appropriate alphabetical order:

main benefit has the same meaning as in section 349 of the Social Security
Act 2018

In regulation 13(a)(i), replace “an income-tested benefit” with “a main benefit”.