

Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2)

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following Acts:

- Income Tax Act 2007;
- Goods and Services Tax Act 1985;
- Tax Administration Act 1994;
- Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022;
- Income Tax Act 2004;
- Companies Act 1993;
- Insolvency Act 2006.

Broadly, the policy proposals in this Bill fall into 3 categories. The first category sets the annual rates of income tax for the 2022–23 tax year.

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

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 these concerns.

The third category relates to proposals aimed at improving the settings for tax administration, the goods and services tax (GST) regime, KiwiSaver, and social policy rules administered by Inland Revenue.

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. This process helps to ensure that tax and social policy changes are well thought through. The GTPP is designed to ensure better, more effective policy development through the early consideration of all aspects, and likely impacts, of proposals. The GTPP increases 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.

The final stage of the GTPP is a post-implementation review of new legislation and identification of remedial issues that need correcting for the new legislation to have its intended effect. Further information on the GTPP can be found at: <https://taxpolicy.ird.govt.nz/about-us/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://www.taxpolicy.ird.govt.nz/publications/2022/2022-commentary-perm2-bill>.

Setting annual rates of income tax for the 2022–23 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 2022–23 tax year be set at the rates currently specified in schedule 1, part A of the Income Tax Act 2007.

Platform economy

Implementing an information reporting and exchange framework developed by the Organisation for Economic Co-operation and Development on digital platforms

The Bill proposes to implement rules designed by the Organisation for Economic Co-operation and Development (OECD) that were developed in response to the rapid growth of the digital economy and calls for a global reporting framework for activities being facilitated by digital platforms in the sharing and gig economy.

The rules were developed because activities facilitated by digital platforms may not always be visible to tax authorities or self-reported by taxpayers. The rules also recognise that the platform economy permits increased access to information by tax administrations globally, as it brings activities previously carried out in the informal

cash economy onto digital platforms. The rules are supported by a range of multinational digital platforms that have been involved in their development.

The rules would require digital platform operators that are based in New Zealand to provide the Commissioner of Inland Revenue with information about people who earn income on that platform if the income is earned from providing accommodation, personal services, vehicle rentals, or the sale of goods. To the extent to which the information relates to a non-resident taxpayer, the Commissioner is required to exchange this information with the non-resident taxpayer's tax authority, provided these rules have been implemented in that jurisdiction. The Commissioner of Inland Revenue would also receive information about New Zealand tax resident sellers on offshore digital platforms from other tax authorities where the OECD's rules are in force.

The information collected and exchanged could be used by Inland Revenue and other tax authorities to support persons who earn income through digital platforms in complying with their tax obligations.

To support the implementation of these rules, the Bill proposes new civil penalties that could apply to operators of digital platforms with reporting obligations in New Zealand, and taxpayers who earn income on these digital platforms. The Bill also proposes that further changes made to the OECD rules in the future would be automatically incorporated and could be subject to exclusion by way of a proposed Order in Council process.

Collecting GST on accommodation and transportation services provided through electronic marketplaces

GST is a broad-based consumption tax that applies to most supplies of goods and services made in New Zealand by a registered person in the course or furtherance of their taxable activity. This keeps the GST system fair, simple, and efficient.

In 2016, New Zealand's GST rules were amended to require operators of electronic marketplaces to collect GST on cross-border services purchased by New Zealand-resident consumers. The rules for electronic marketplaces were subsequently extended in 2019 to apply to certain imported goods received in New Zealand. These rules have been successful in promoting the fairness, sustainability, and efficiency of the GST system.

The proposals in the Bill follow a report by the OECD on *The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration*, and public consultation in New Zealand in a discussion document released by the Government in March 2022, *The role of digital platforms in the taxation of the gig and sharing economy*.

The Bill proposes to extend the electronic marketplace rules to taxable accommodation and certain transportation services provided in New Zealand from 1 April 2024. The effect of this extension is that operators of electronic marketplaces – whether based offshore or in New Zealand – would need to start collecting GST on these types of services where they are provided through an electronic marketplace. When provi-

ded through electronic marketplaces, the recipient of these services generally does not pay GST. This puts services supplied through electronic marketplaces at an advantage over substitutable services supplied through other means (such as traditional taxi rides or short-stay accommodation in hotels and motels). Consequential amendments are proposed to ensure that existing rules for operators of electronic marketplaces would apply to the new services subject to the electronic marketplace rules.

The Bill also proposes a flat-rate credit scheme that is intended to recognise that GST is unrecoverable on costs incurred in making supplies of the taxable accommodation and transportation services that would be subject to GST through electronic marketplaces by sellers who are not required to be registered for GST (because their supplies are below the registration threshold of \$60,000 per 12-month period). It also contains amendments that would allow large commercial enterprises that provide accommodation services through electronic marketplaces to enter into agreements with the operators of those electronic marketplaces to opt out of the rules, which would ensure they remain responsible for collecting GST themselves.

Taxable accommodation and certain transportation services provided in New Zealand

The Bill proposes amendments to the Goods and Services Tax Act 1985 that would require operators of electronic marketplaces to collect GST on supplies of “listed services”. These services include accommodation that is taxable in New Zealand (including short-stay accommodation) and certain transportation services (which are defined as “ride-sharing” and beverage and food delivery services). Other services that are closely connected with these services would also be subject to GST when provided through an electronic marketplace. Under the proposals in the Bill, listed services would always be subject to GST at 15% where the services are performed, provided, or received in New Zealand.

Flat-rate credit scheme

The Bill proposes that operators of electronic marketplaces would be required to take a deduction of the GST payable to Inland Revenue on supplies of accommodation and transportation services that are made through electronic marketplaces by persons who are not registered for GST. This deduction, which is proposed to be 8.5% of the value of the services, would then be required to be passed on by the operator of the electronic marketplace to the underlying supplier of the services where the underlying supplier of the services was not registered for GST.

This deduction recognises that the underlying supplier of the services, not being a GST-registered person, is not able to recover GST on the costs they incur in making supplies of taxable accommodation and transportation services through electronic marketplaces. It provides these underlying suppliers with a credit that recognises the otherwise unrecoverable GST on their costs.

The flat-rate credit scheme would be available to underlying suppliers who are not required to be registered for GST, or who choose not to be, if their supplies are below the \$60,000 GST registration threshold. Suppliers of these services who are registered

for GST will continue to take deductions for the GST on their costs in making these supplies in the usual way.

Opt-out agreements for large commercial enterprises providing accommodation

The Bill proposes to enable large commercial enterprises that provide accommodation through electronic marketplaces (for example, hotels) to enter into written agreements with the operators of those electronic marketplaces that the large commercial enterprise, and not the operator of the electronic marketplace, will remain responsible for collecting and returning GST on accommodation they provide. This is intended to minimise compliance costs for large commercial enterprises that supply accommodation through electronic marketplaces by avoiding disruptive changes to their existing accounting systems and practices.

A large commercial accommodation enterprise would be a person that lists at least 2,000 nights of accommodation available on an electronic marketplace in a year. The Bill also proposes that the Commissioner of Inland Revenue would be responsible for determining other circumstances where a person meets the criteria to be a “large commercial enterprise” for these purposes following a period of public consultation.

GST treatment of legislative charges

The Bill proposes amendments to clarify the GST treatment of charges, including fees and levies, payable under New Zealand Acts and regulations (“legislative charges”). The proposed amendments are intended to address the current inconsistent approach to GST on legislative charges and are consistent with New Zealand’s broad-based GST framework under which GST applies to a broad range of goods and services supplied in New Zealand.

The Bill proposes to amend the Goods and Services Tax Act 1985 to introduce a rule that would treat all legislative charges as consideration for a supply of goods and services. This is to remove the doubt that can exist in determining whether legislative charges are “in respect of, in response to, or for the inducement of” a supply of goods and services. The proposed approach also ensures that the other provisions of the Goods and Services Tax Act 1985 to determine whether a supply of goods and services is exempt or zero-rated would continue to apply.

The proposed rule for legislative charges also provides that charges in the nature of fines, penalties, interest, and general taxes are not treated as consideration for a supply of goods and services as these types of charges are not generally for the supply of goods or services.

The Bill also proposes a schedule of non-taxable legislative charges that could be amended in the future to include a reference to specific charges, or classes of charges, that would not be subject to the proposed rule. The schedule would require legislation to be updated, and a temporary transitional regulation-making power is proposed that would enable the Governor-General to make Orders in Council on the recommendation of the Minister of Revenue to add specific or classes of charges to this proposed schedule until 30 June 2026. This is to recognise that there may be good tax policy

reasons why GST should not apply to particular charges that have not been identified at the time of the introduction of the Bill.

The proposed amendments would take effect from 1 July 2023 for legislative charges that come into force after this date, and from 1 July 2026 for all other legislative charges. This 3-year transitional period is intended to provide time for government agencies with administrative responsibility for legislative charges to make any necessary changes to their charges.

GST apportionment and adjustment rules

A GST-registered person can deduct GST paid on purchases of assets, such as buildings and vehicles that they use in their business. Where the asset is used both for business and private purposes (or to make exempt supplies), then the GST-registered person must apportion the deduction, by only claiming a deduction for the percentage of business use. The current GST apportionment and adjustment rules are complex and impose high compliance costs.

The Bill includes a proposed reform package that is designed to reduce compliance costs, improve fairness in tax outcomes between different types of ownership structures and arrangements and better align the rules with current taxpayer practices.

The main elements of the proposed reform package are to:

- Allow GST-registered businesses to elect to treat certain assets that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use.
- Introduce a simple principal purpose test for assets acquired for \$10,000 or less. If these assets are principally acquired for business purposes, the GST-registered business would be able to claim a full GST input tax deduction, rather than applying the apportionment rules.
- Introduce new integrity measures to improve Inland Revenue's ability to collect GST owing on the sale of assets by a GST-registered business that claimed business use of the asset when they originally acquired the asset.
- Make various improvements to the current GST apportionment and adjustment rules to reduce compliance costs.

Cross-border workers reform

There are obligations on persons who make payments subject to pay-as-you-earn (PAYE) withholding tax, fringe benefit tax (FBT), employer's superannuation contribution tax (ESCT), or non-resident contractors' tax (NRCT). Concerns were raised with Inland Revenue that these rules are not sufficiently clear or flexible when applied to cross-border work arrangements.

This Bill proposes to modernise and clarify the application of those rules to employers and payers of cross-border workers. The overall policy package aims to reduce the cost of compliance and to enable greater flexibility in the rules. A package of improvements is proposed that are intended to:

- Improve the flexibility of, and/or clarify, the PAYE, FBT, and ESCT rules. A broad framework is proposed to enable additional flexibility in the rules where they apply to identified cross-border workers. In particular, employers would be able to make a payment of underpaid tax within 60 days of the breach of an exemption or where the employee has received an extra pay.
- Support the integrity of the PAYE, FBT, and ESCT rules. The changes would make a safe harbour available to employers who wrongly assess their liability to discharge New Zealand employment-related tax obligations where the safe harbour conditions are met. The rules would also ensure that where the employer does not have a tax obligation and has made no other arrangements, the employee would be responsible for meeting the relevant obligations.
- Improve the flexibility of, and broaden, the NRCT rules. These changes would simplify the approach to the schedular payment withholding thresholds and introduce a 60-day grace period, similar to that proposed for PAYE, FBT, and ESCT. NRCT exemptions would be broadened, including permitting a 92-day retroactive period. Finally, the proposals would allow a non-resident contractor to nominate a New Zealand resident taxpayer to establish a good compliance history for exemption purposes.

Dual resident companies

The Bill proposes amendments relating to companies that are both tax resident in New Zealand and another jurisdiction (dual resident companies). The first series of amendments seek to resolve uncertainty created by Australia's recent changes to the application of its corporate residency tax rules, which may result in more New Zealand companies being tax resident in Australia. The proposed amendments would ensure affected New Zealand companies have uninterrupted access to New Zealand's loss grouping, consolidation and imputation credit regimes. The second series of amendments seek to resolve integrity issues with the application of the domestic dividend exemption and corporate migration rules to dual resident companies. The proposed amendments to the domestic dividend exemption and the corporate migration rules are targeted towards arrangements that have a tax integrity risk, while limiting potential overreach and compliance costs.

Granting 9 charities overseas donee status

The Bill proposes 9 New Zealand charities with overseas charitable purposes be granted overseas donee status and listed in schedule 32 of the Income Tax Act 2007. The status would mostly have effect from 1 April 2022, with a few exceptions where it proposes charities be granted an earlier application date in response to their fundraising for disaster relief in Tonga and the humanitarian crisis in Ukraine. The Bill also proposes to change the name of an already listed charity as the result of a restructure.

Fringe benefit tax exemption for public transport

The Bill proposes a fringe benefit tax exemption for public transport. The exemption would cover fares on bus, train, ferry, tram, or cable car services subsidised by an

employer mainly for the purpose of their employee travelling between their home and place of work.

Build-to-rent exemption from interest limitation

The Bill proposes that build-to-rent (BTR) assets be exempt from the interest limitation rules in perpetuity. This would allow investors to continue to deduct interest on loans relating to BTR assets for as long as they meet the asset class definition. To qualify for the exemption, the Chief Executive of Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development would have to be satisfied that the development meets the definition of build-to-rent land. This exemption would ensure the interest limitation rules do not disincentivise investment in BTR developments so that such developments continue to contribute to quality rental supply in Aotearoa New Zealand.

Remedial amendments

A number of remedial matters are also addressed in the Bill. These include:

- Ensuring distribution networks consistently apply the component items approach for depreciation and repairs and maintenance;
- Providing that student loan scheme repayment obligations for salary and wage income cannot be altered after a period of 4 years;
- Clarifications and technical amendments to the rules for GST and taxable supply information;
- Allowing a refundable credit for a specific situation for petroleum miners that was unintentionally disallowed;
- Amendments to the interest limitation rules for residential property;
- Ensuring that the allocation of subdivided properties among the original co-owners of the undivided land is not a disposal for the land sales provisions;
- Amendments to the application of the foreign investment fund and controlled foreign company rules;
- Amendments to the foreign trust disclosure rules;
- Allowing multi-rate portfolio investment entities to choose to use Method C in Determination G27 to spread income and deductions from interest rate swaps if they meet the requirements for the method;
- Updating references and terms from the existing IFRS 4 accounting standard for general and life insurance contracts due to its replacement by the IFRS 17 accounting standard;
- Clarifying the income tax treatment of grants paid by public purpose Crown-controlled companies;
- Amendments to the financial arrangements rules;
- Applying the GST insolvency rules to voluntary administrations;

- Clarifying the provisional tax standard uplift method for calculation;
- Allowing a deceased person's tax return to include reportable income received up to 28 days after their date of death;
- Ensuring all impacted taxpayers have access to early payment discount and tax pooling;
- Clarifying the rules for non-active trusts and ensuring that smaller trusts and estates are not burdened with excessive compliance costs;
- Amendments to the GST rules for grants and subsidies paid to public authorities;
- Associating members of a joint venture with the joint venture for GST purposes;
- Allowing input tax deductions for goods and services not yet available for use in making taxable supplies; and
- Clarifications to the GST compulsory zero-rating of land rules.

A number of minor remedial matters are also addressed in the Bill, consisting mainly of correcting minor faults of expression, reader's aids, and incorrect cross-references.

Detail of further remedial amendments is included in the Commentary to the Bill.

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=2022&no=164>.

Regulatory impact statement

The Inland Revenue Department produced regulatory impact statements on 25 May 2022, 26 May 2022, 31 May 2022, 2 June 2022, and 29 June 2022 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

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

Clause by clause analysis

Clause 1 is the title clause.

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 2022–23 tax year.

Part 2

Amendments to Income Tax Act 2007

Clause 4 provides that *Part 2* amends the Income Tax Act 2007.

Clause 5 amends *section AA 1* to remove the reference to “net income” as the section does not use the term in the same way as it is defined.

Clause 6 amends *section CB 6A* to clarify that it does not apply to the extent to which the relevant land is acquired before 27 March 2021. Also, signposting to *section FC 9* is inserted.

Clause 7 amends *section CB 6AB* to correct a drafting error and widen the application of bright-line rollover relief.

Clause 8 amends *section CB 6AC* to correct a drafting error and widen the application of bright-line rollover relief.

Clause 9 amends *section CB 16A* to remove a redundant provision.

Clause 10 amends *section CD 1* to provide a 2-year deferral in the recognition of income in the case of certain dividends derived by dual resident companies.

Clause 11 amends *section CD 14* as a consequence of the amendments to the corporate migration rules.

Clause 12 amends *section CD 15* to clarify that a beneficiary’s imputation credit for income purposes equals the corresponding tax credit they receive.

Clause 13 amends *section CD 26* as a consequence of the amendments to the corporate migration rules.

Clause 14 amends *section CD 36* to exclude, from being dividends for the purposes of the FIF income rules, a distribution from a CFC that is a unit trust if the distribution is funded from distributions from certain FIF interests.

Clause 15 amends *section CD 43* as a consequence of the amendments to the corporate migration rules.

Clause 16 amends *section CE 1* to insert a cross reference to *new section CE 1F*.

Clause 17 inserts *new section CE 1F* to provide for the treatment of amounts derived by cross-border employees. The section also provides a definition of *cross-border employee*.

Clause 18 amends *new section CE 1F* from 1 April 2024 to provide a grace period for employers to comply with their tax obligations when it is discovered that a cross-border employee has breached a threshold or received an extra pay in relation to the period in which they were providing services in New Zealand.

Clause 19 amends *section CQ 5* to update nomenclature.

Clause 20 amends *section CR 4* as a consequence of the amendments allowing insurance companies to use IFRS 17 for tax accounting.

Clause 21 amends *section CV 12* to make a change to a cross-reference.

Clause 22 amends *section CW 10*, which exempts dividends within New Zealand wholly-owned groups from income tax, to narrow the scope of that exemption.

Clause 23 amends *section CX 9* to provide that subsidised public transport is not a fringe benefit.

Clause 24 amends *section CX 10* to update nomenclature.

Clause 25 amends *section CX 13* which provides that a fringe benefit arises when a contribution to a superannuation scheme is made to clarify that an employer's contribution to a foreign superannuation scheme is excluded in the same way as an employer's superannuation cash contribution.

Clause 26 amends *section CX 14* which provides that a fringe benefit arises for a contribution to a sickness, accident, or death benefit fund to exclude contributions to foreign superannuation schemes from the ambit of the section.

Clause 27 inserts *new section CX 19C* to provide that subsidised public transport is not a fringe benefit.

Clause 28 amends *section CX 26* to insert a new subsection to clarify that a benefit received by an employee who is no longer resident in New Zealand is a fringe benefit only to the extent to which it relates to the time the employee was in New Zealand.

Clause 29 amends *section CX 35* to update nomenclature.

Clause 30 amends *section CX 47* to provide that grants from public purpose Crown-controlled companies are government grants and excluded income of the recipient.

Clause 31 amends *section CX 57B* to treat as excluded income a distribution from a CFC that is a unit trust if the distribution is funded from distributions from certain FIF interests.

Clause 32 amends *section CZ 39* to clarify that it does not apply to the extent to which the relevant land is acquired before 29 March 2018.

Clause 33 amends *section DB 53* to clarify when the section applies.

Clause 34 inserts a *new heading and new section DB 68* to clarify the treatment of expenditure for utilities distribution assets.

Clause 35 amends *section DD 11*, definition of *business premises* as part of repositioning that definition.

Clause 36 amends *section DF 1* to deny a deduction for grants from public purpose Crown-controlled companies.

Clause 37 amends *section DG 5*, to clarify the relationship between mixed-use assets rules and interest disallowance for residential property.

Clause 38 amends *section DG 11*, to clarify the relationship between mixed-use assets rules and interest disallowance for residential property.

Clause 39 amends *section DH 6* to correct a cross-reference.

Clause 40 amends *section DH 7* to update nomenclature.

Clause 41 repeals *section DH 9*, as redundant.

Clause 42 amends *section DH 12* to correct a minor drafting error.

Clause 43 amends *section DN 6* to update nomenclature.

Clause 44 amends *section DW 4* to allow for the adoption by an insurer of IFRS 17 for the treatment of the insurer's reserve for outstanding claims liability.

Clause 45 amends *section EE 6* to clarify the treatment of expenditure for utilities distribution assets.

Clause 46 amends *section EE 7* to clarify the treatment of expenditure for utilities distribution assets.

Clause 47 amends *section EE 31* as a consequence of the amendments to the corporate migration rules.

Clause 48 amends *section EW 15D* as a remedial matter, to ensure that, for financial assets accounted for under the fair value method, a movement in fair value that reverses a decline in credit quality does not result in assessable income.

Clause 49 amends *section EW 46C*, to update nomenclature.

Clause 50 inserts *new section EW 46D* to provide that when an insolvent company's debt is repaid with consideration received for issuing shares, the person who made the repayment is treated as having paid an amount towards the debt equal to the market value of the shares rather than the amount they actually paid towards the debt.

Clause 51 amends *section EX 20B* to correct possible double taxation when a CFC of a person has an interest in a FIF that is an attributing interest for the person.

Clause 52 amends *section EX 20C* to correct possible double taxation when a CFC of a person has an interest in a FIF that is an attributing interest for the person.

Clause 53 amends *section EX 38* to correct grammar.

Clause 54 amends *section EX 46* to replace references to "highly effective" hedging instruments. The references depended on the meaning for the term given by NZ IAS 39, but that standard is no longer used.

Clause 55 amends *section EX 52* to provide, in the application of the fair dividend rate method of calculating FIF income, for Australian unit trusts that are treated under Australian tax law in the same way as companies.

Clause 56 amends *section EX 53* to provide, in the application of the fair dividend rate method of calculating FIF income, for Australian unit trusts that are treated under Australian tax law in the same way as companies.

Clause 57 amends *section EX 59* to provide, in the exclusion to this section, for an additional requirement that the FIF interest is not a unit trust or is a unit trust that is subject to income tax under Australian law in the same way as a company.

Clause 58 amends *section EY 24* to allow for changes made by IFRS 17 to the accounting for an insurer's reserve for liability for outstanding claims.

Clause 59 amends *section FC 9* to add a reader's aid.

Clause 60 amends *section FL 1* as part of the expansion in scope of the corporate migration rules to include New Zealand resident companies that start to be treated under a double tax agreement as not being New Zealand resident.

Clause 61 replaces *section FL 2*, which provides for the income tax treatment of New Zealand resident companies that stop being New Zealand resident and their shareholders, as a consequence of the expansion in scope of the corporate migration rules to include New Zealand resident companies that start to be treated under a double tax agreement as not being New Zealand resident.

Clause 62 inserts *new section FL 3*, as part of the expansion in scope of the corporate migration rules, to provide for the income tax treatment of New Zealand resident companies that start to be treated under a double tax agreement as not being New Zealand resident and their shareholders if a specified event subsequently occurs.

Clause 63 amends *section FM 31* to relax the eligibility requirements for membership of a consolidated group.

Clause 64 amends *section FN 4* as a consequence of making a New Zealand resident company automatically become an Australian ICA company if it starts to be treated, under a double tax agreement between New Zealand and Australia, as not being resident in New Zealand.

Clause 65 amends *section GB 28* to correct a minor fault of expression.

Clause 66 amends *section GC 13* to update a paragraph reference to the 2022 version of the OECD transfer pricing guidelines.

Clause 67 amends *section HA 7* to remove unnecessary references to adoption.

Clause 68 amends *section HB 13* to correct a minor fault of expression.

Clause 69 amends *section HC 8* to provide that reportable income received by the trustee of a deceased person's estate within 28 days of the person's death is treated as being income of the person, rather than of the trustee.

Clause 70 amends *section HC 26*, which provides for the exemption of foreign-sourced amounts received by resident trustees of some trusts, to clarify that the exemption is not restricted to foreign trusts and is available to trusts created by wills. The power of the Commissioner to excuse late compliance by trustees with their obligations is extended by removing the need for trustees to correct non-compliance within a reasonable time of becoming aware of the non-compliance.

Clause 71 amends *section HC 36* to remove unnecessary references to adoption.

Clause 72 amends *section HM 35* to add an option for using an accrual method for multi-rate PIEs.

Clause 73 amends *section HM 40* to repeal unnecessary words.

Clause 74 amends *section HR 12* to correct a minor fault of expression.

Clause 75 inserts *new section IB 2B* to ensure that the rules that enable companies to carry forward tax losses despite breaching ownership continuity work as intended. The new section does this by altering the period over which continuity of ownership is measured for the purpose of determining whether a subsequent ownership continuity breach has occurred.

Clause 76 amends *section IC 4* to update nomenclature.

Clause 77 amends *section IC 5*, which provides when a company can make a tax loss available to another company. *Subclause (1)* amends subsection (1)(b) as a consequence of amending *section IC 7*. *Subclause (2)* inserts *new subsection (8)*, which identifies that *new section IZ 7B* modifies subsection (1)(b) for commonality periods starting before 15 March 2017 for tax loss components arising after the 1990–91 tax year.

Clause 78 amends *section IC 7* to remove the residence in New Zealand requirement for a company to group tax losses.

Clause 79 inserts *new section IZ 7B*, which is a transitional rule for grouping tax losses for commonality periods starting before 15 March 2017 for tax loss components arising after the 1990–91 tax year.

Clause 80 amends *section LE 5* to limit a beneficiary's imputation credit to the corresponding tax credit they receive.

Clause 81 amends *section LK 1* as a consequence of the amendments to *section IC 7*.

Clause 82 amends *section LT 1*, which provides for the calculation of some tax credits, by clarifying the calculation of an item in a formula giving the maximum amount of the tax credit available for a tax year.

Clause 83 amends *section OB 2* to provide that a New Zealand resident company must continue to maintain an imputation credit account if it starts to be treated under a double tax agreement between New Zealand and Australia as not being resident in New Zealand.

Clause 84 amends *section OB 62* as a consequence of the amendments to the corporate migration rules.

Clause 85 amends *section RA 6* to provide a 2-year deferral of the obligations to withhold NRWT from certain dividends paid to dual resident companies and to pay that NRWT to the Commissioner.

Clause 86 amends *section RA 15* to provide that the Commissioner and an employer of certain cross-border employees may agree to alter the date for payment of amounts of tax for PAYE income payments of those employees for whom it is difficult to ascertain and provide information by the usual due dates.

Clause 87 amends *section RA 18* as a consequence of the amendments to the corporate migration rules.

Clause 88 amends *section RC 5*, which provides methods for calculating a person's provisional tax liability. *Subclauses 1 and 2* clarify that provisional tax under either uplift method is assessed at each instalment date. *Subclauses 3, 4, and 5* clarify that the 110% uplift method is only available for instalments due on or before the date the person files their return of income for the preceding tax year. *Subclause 6* clarifies that the 110% uplift method applies in circumstances where the instalment is due on a non-working day and the person files the preceding year's tax return on the same day.

Clause 89 amends *section RD 5* to clarify that contributions to foreign superannuation schemes are included in salary and wages.

Clause 90 amends *section RD 8* to provide that a schedular payment to a non-resident contractor may include a payment made by an associated person or by a member of a group of companies. The section also clarifies how the 92–threshold is calculated and how the monetary threshold is determined.

Clauses 91 and 92 repeal *sections RD 23 and RD 24(1)(b)* related to bonds that are required to be given by employers of certain non-resident employees.

Clauses 93 and 94 insert *new sections RD 62B and RD 71B* regarding the obligations of cross-border employees when an amount of an FBT liability or amounts of tax for superannuation contributions made in relation to the time the employees are in New Zealand are not paid. The employee is required to provide the relevant information and pay the amount of the deficiency.

Clause 95 amends *section RF 2*, which gives the meaning of *non-resident passive income*, to expand that definition to encompass certain dividends derived by dual resident companies. The effect of the amendments is to subject those dividends to NRWT.

Clauses 96 and 97 amend *sections RF 2C and RF 12G*, respectively, as a consequence of amending *section RF 2*.

Clause 98 amends *section YA 1*. *Subclause (2)* replaces the definition of *Australian ICA company*. The expanded new definition encompasses a company that is required by *new section OB 2(3B)* to maintain an imputation credit account. *Subclause (3)* inserts a new definition of *build-to-rent land*, to make build-to-rent land an exception to the disallowance of interest for residential land. *Subclause (4)* replaces the definition of *business premises* as part of repositioning that definition. *Subclause (5)* inserts a reference to the definition of *cross-border employee*. *Subclause (6)* amends the definition of *disposal* to exclude certain self-dealings. *Subclause (7)* inserts a new definition of *DRCDC deferral date*, which is used in the amendments to *sections CD 1 and RA 6*. *Subclause (8)* amends the definition of *fully imputed* to include a cross-reference to *section CW 10*. *Subclause (9)* replaces the definition of *ICA company* as a consequence of changing the meaning of *Australian ICA company*. *Subclause (10)* updates a reference to an accounting standard. *Subclause (11)* amends the definition of *non-resident contractor* to exclude a non-resident entertainer. *Subclause (12)*

amends the definition of *OECD transfer pricing guidelines* to refer to the 2022 version of the guidelines. *Subclause (13)* amends the definition of *outstanding claims reserve*. *Subclause (14)* replaces the definition of *present value (gross)* to update terminology. *Subclauses (15) and (16)* amend the definition of *profit distribution plan* to correct minor faults of expression. *Subclause (17)* amends the definition of *relative* to remove unnecessary references to adoption. *Subclause (18)* amends the definition of *settlement* to correct a cross-reference. *Subclause (19)* replaces the definition of *time of emigration* as part of the expansion in scope of the corporate migration rules to include New Zealand resident companies that start to be treated under a double tax agreement as not being New Zealand resident. *Subclause (20)* amends the definition of *trust rules* to correct a cross-reference. *Subclause (21)* amends the definition of *unit trust* to update nomenclature. *Subclauses (22), (23), and (24)* insert new definitions of *utilities distribution assets*, *utilities distribution network* and *utilities distribution network operator* to clarify the treatment of expenditure for utilities distribution assets.

Clause 99 amends *section YB 4* to remove unnecessary references to adoption.

Clause 100 amends *schedule 15* to make build-to-rent land an exception to the disallowance of interest for residential land.

Clause 101 amends *schedule 32* which lists overseas-based charities to which a donation entitles the donor to a deduction.

Part 3

Amendments to Goods and Services Tax Act 1985

Clause 102 provides that *Part 3* amends the Goods and Services Tax Act 1985 (the **GST Act**).

Clause 103 amends *section 2*. *Subclause (2)* amends the definition of *electronic marketplace* to include a supply of listed services in the supplies that may be made through the marketplace. *Subclause (3)* inserts a new definition of *flat-rate credit* for the amount that is passed to an underlying supplier of listed services when the underlying supplier is not a registered person. *Subclause (4)* inserts a new definition of *listed services*. *Subclauses (5), (6), (7), and (8)* amend various definitions to account for the proposed repeal of the mixed-use asset apportionment rules.

Clause 104 amends *section 2A* to provide that a joint venture and a member of the joint venture are associated persons.

Clause 105 amends *section 5*, which sets out the meaning of supply. *Subclause (1)* repeals provisions that are redundant as a result of the general rule introduced by *subclause (3)*. *Subclause (2)* ensures government grants and subsidies paid to public authorities are subject to GST. *Subclause (3)* provides the GST treatment for charges payable under legislation. *Subclause (4)* provides for listed services to have the same treatment as remote services. *Subclauses (5) and (6)* make consequential amendments for the purposes of allowing a GST registered person to elect to treat certain assets as if they only have private or exempt use. *Subclause (7)* clarifies that the disposal of an

asset is a taxable supply if the registered person previously claimed taxable use of that asset. *Subclause (8)* repeals a redundant provision. *Subclause (9)* deems a supply of goods to be made by the recipient of goods that have been incorrectly zero-rated.

Clause 106 amends *section 8* in relation to the introduction of supplies of listed services to provide that the supply is chargeable with tax and to provide when the supply is treated as made in New Zealand.

Clause 107 amends *section 8B* to clarify when the section applies to remote services for the purposes of certain provisions of the Act. The section also updates a cross reference to *section 8BB*.

Clause 108 amends *section 8BB* to clarify the nature of the supplies to which the section applies to determine whether the supply is made by a registered person.

Clause 109 inserts *new section 8C* for the treatment of supplies of listed services in New Zealand. The section describes the services that are listed services and their treatment as 2 separate supplies by an underlying supplier and the operator of the electronic marketplace. It sets out the obligations of the operator when the underlying supplier is not registered, and what the underlying supplier is required to do when input tax is inappropriately deducted. The section also sets the rate for the input tax and flat-rate credit and requires the operator to provide a statement to the underlying supplier.

Clause 110 amends *section 9* to include listed services for the purposes of loyalty programmes.

Clause 111 amends *section 10* for the treatment of listed services and to exclude these services from the discounted services described in subsection (6).

Clause 112 amends *section 11* to standard-rate periodic payments made under an agreement for periodic supplies of an interest in land (such as a commercial lease) following an irregular lump-sum payment of more than 25% of the total consideration under the agreement.

Clause 113 amends *section 14* to allow registered persons to treat the disposal of certain qualifying goods which have mainly non-taxable use as exempt supplies.

Clause 114 amends *section 15* to include a cross reference for listed services.

Clause 115 amends *section 19K* to include a reference to taxable supply information for listed services.

Clause 116 amends *section 20*. *Subclauses (1) and (2)* correct amendments made in section 21 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 that commenced from the incorrect dates. *Subclause (3)* provides for the deduction taken by an operator of an electronic marketplace of an amount of input tax equal to the amount of a flat-rate credit to be passed on to an underlying supplier who has not notified the operator that they are a registered person. *Subclause (4)* makes a consequential amendment to account for the proposed repeal of the mixed-use asset apportionment rules in sections 20(3JB) and 20G. *Subclause (5)* clarifies that section 20(3LB) applies instead of section 20(3C)(b). *Subclause (6)* ensures that the general

rule for determining if input tax may be deducted does not apply if the proposed new principal purpose test for goods and services acquired for \$10,000 or less applies. *Subclauses (7) and (8)* enable a registered person to deduct input tax in relation to goods and services supplied to them that they intend to use in making taxable supplies. *Subclause (9)* enables a registered person to claim a full input tax deduction for goods and services acquired for \$10,000 or less and for the principal purpose of making taxable supplies. *Subclauses (10) and (11)* allow the Commissioner of Inland Revenue to approve a wider range of apportionment methods by removing the requirement for the method to have regard to the tenor of the apportionment rules. *Subclause (12)* allows a registered person who acquires a zero-rated supply of land or a going concern to choose to return output tax on the full nominal GST amount of goods. By doing this, they can become eligible under section 14(4) to make their future disposal of these goods an exempt supply, provided they meet the other conditions in section 14(4). *Subclause (13)* makes a consequential amendment to account for the proposed repeal of the mixed-use asset apportionment rules in sections 20(3JB) and 20G. *Subclause (14)* repeals the mixed-use asset apportionment rules in section 20(3JB). *Subclause (15)* makes a consequential amendment to account for the proposed repeal of the mixed-use asset apportionment rules in sections 20(3JB) and 20G. *Subclause (16)* creates an output tax adjustment equal to the amount of the flat-rate credit received by a registered person. *Subclause (17)* provides that the principal purpose test in section 20(3CB) and (3CC) overrides section 20(3L). *Subclauses (18) and (19)* make consequential amendments relating to subclauses (7) and (8), to allow GST-registered non-resident person to claim an input tax deduction for goods and services intended for use by them in making taxable supplies (treating all the supplies made by them as if they were made and received in New Zealand). Section 20(3L) has been amended twice because it was replaced on 30 March 2022. *Subclause (20)* makes a consequential amendment to ensure that an input tax deduction can be claimed by a GST-registered non-resident person on imported goods intended to be used by them in making taxable supplies (treating all supplies made by them as if they were made and received in New Zealand). *Subclause (21)* provides that the principal purpose test in section 20(3CB) and (3CC) overrides section 20(3LB). *Subclause (22)* inserts a new subsection to set the rate for the flat-rate credit for listed services and prescribes the amount of the deduction for the flat-rate credit at 8.5% of the value of the service. *Subclause (23)* makes a consequential amendment to section 20(4) to reflect amendments made to the wash-up calculation provisions in section 21FB. *Subclause (24)* attributes output tax that a person has elected to pay under section 91 to the taxable period in which the election was made. *Subclause (25)* provides for listed services to be treated in the same way as remote services. *Subclause (26)* provides the timing of the output tax adjustment referred to in *new subsection (3JD)*. The section also updates some cross references related to listed services.

Clause 117 repeals *section 20G*, which contains apportionment rules for mixed-use assets.

Clause 118 amends *section 21*. *Subclause (1)* ensures no adjustments can be made for goods and services valued at \$10,000 or less. *Subclauses (2) and (3)* provide that a

person cannot make an adjustment if they have elected to treat a supply of goods as exempt under section 14(4). *Subclauses (4) and (5)* allow Inland Revenue to approve a wider range of apportionment methods by removing the requirement for the method to have regard to the tenor of the apportionment rules.

Clause 119 amends *section 21B* to delete the reference to section 20G to account for the proposed repeal of the mixed-use asset apportionment rules.

Clause 120 amends *section 21D* to delete the reference to section 20G to account for the proposed repeal of the mixed-use asset apportionment rules.

Clause 121 amends *section 21F* consequentially.

Clause 122 replaces *section 21FB*. *Subclause (1)* retrospectively amends the definition of *actual deduction* to ensure that the wash-up calculation correctly accounts for the land that was acquired as a zero-rated supply. *Subclause (2)* expands the ability to use the wash-up rule in section 21FB, which provides a final adjustment when there have been a permanent change of use. The amendments allow the rule to be used for any permanent change in use, rather than just a change to fully taxable, or fully non-taxable use.

Clause 123 amends *section 21G*. *Subclauses (1), (3), and (5)* delete the reference to section 20G to account for the proposed repeal of the mixed-use asset apportionment rules. *Subclauses (2), (4), and (7)* make consequential amendments. *Subclause (6)* reduces compliance costs for businesses by reducing the number of adjustment periods required for goods and services of different values, and capping the number of adjustment periods required for land at ten.

Clause 124 amends *section 21HB* to update a cross-reference.

Clause 125 amends *section 26AA* to include a reference to listed services.

Clause 126 amends *section 51* to include a reference to listed services.

Clause 127 amends *section 58* to clarify that administrators are treated as carrying on the taxable activity of a company in voluntary administration.

Clause 128 amends *section 60* to include a reference to listed services.

Clause 129 amends *section 60C* to update the section for supplies of listed services through electronic marketplaces. The section provides for certain services that are accommodation services provided by large commercial enterprises in relation to which the Commissioner must provide guidance for agreements between the underlying supplier and the operator of the marketplace to change the liability for the payment of tax.

Clause 130 inserts *new section 60H* to set out the information requirements for underlying suppliers operating through electronic marketplaces. The section includes a provision relating the model reporting standards under the Tax Administration Act 1994 requiring information to be provided to a reporting platform operator.

Clauses 131 and 132 amend *sections 75 and 77* to insert cross references to *listed services*.

Clause 133 inserts *new section 81B* to prevent taxpayers and the Commissioner of Inland Revenue from amending historic GST assessments in a way that would be inconsistent with the proposed rules for legislative charges in section 5(6EC) to 5(6EE).

Clause 134 inserts *new section 85D* as a transitional provision for certain supplies of listed services when an underlying supplier of accommodation services may choose to apply the new rules in the period from assent to the date on which the new rules come into force.

Clause 135 inserts *new section 90* to enable regulations to be made adding legislative charges to the new schedule of non-taxable legislative charges.

Clause 136 inserts *new section 91* to enable a person to elect to return output tax on certain predominantly private goods that the person had previously claimed a deduction for, or acquired as a zero-rated supply. If the person returns output tax under section 91, any future disposal of the goods is an exempt supply.

Clause 137 inserts a *new schedule* of non-taxable legislative charges.

Part 4

Amendments to Tax Administration Act 1994

Clause 138 provides that *Part 4* amends the Tax Administration Act 1994.

Clause 139 amends *section 3*. *Subclause (2)* inserts a new definition of *DRCD deferral date*, which gives that term the same meaning as in the Income Tax Act 2007. *Subclause (3)* inserts a new definition of *extended model reporting standard for digital platforms* for the new reporting rules. *Subclause (4)* inserts a new definition of *foreign exemption trust*. *Subclause (5)* amends the definition of *large multinational group* to correct a paragraph reference. *Subclause (6)* inserts new definitions of *model reporting standard for digital platforms* and *reporting platform operator* for the new reporting rules.

Clause 140 amends *section 4A* to correct a fault of expression and to ensure that all KiwiSaver employer contributions have the correct preferential debt status.

Clause 141 amends *section 22* for the record keeping requirements of reporting platform operators under the new reporting rules.

Clause 142 amends *section 23I* relating to the information required from employees to provide for particular information about fringe benefits and benefits arising from contributions to foreign superannuation schemes to be reported to the Commissioner.

Clause 143 inserts a *new subpart 3D and section 23R* for the reporting of information about schedular payments made to non-resident contractors. The details are listed in *new schedule 6B*.

Clause 144 amends *section 24H* in relation to schedular payments to provide that the Commissioner may set a retrospective period of up to 92 days in which to include a schedular payment for which no tax is required to be withheld.

Clause 145 inserts *new section 24HB* to provide for the circumstances when a non-resident contractor derives a schedular payment for which they are liable to pay the amount of tax for the payment and they nominate an associated person resident in New Zealand to carry out the tax obligations in relation to the payment. The section provides that the activity of the nominated person can provide a compliance history for exemption purposes.

Clause 146 amends *section 25E* as a consequence of the amendments to the corporate migration rules in the Income Tax Act 2007.

Clause 147 amends *section 25G* to provide a 2-year deferral of the obligation that payers of certain dividends to dual resident companies have to provide information to the Commissioner in relation to those dividends.

Clause 148 amends *section 29*. *Subclause (1)* amends subsection (1C)(b) as a consequence of the amendments to the corporate migration rules in the Income Tax Act 2007. *Subclause (2)* inserts *new subsection (3)* to provide a 2-year deferral of the obligation that payers of certain dividends to dual resident companies have to provide a shareholder dividend statement.

Clause 149 amends *section 43B* to remove the requirement to file a tax return for more trusts and estates.

Clause 150 amends *section 59BA* consequentially on the expansion of the group of trusts with exempt foreign income that are required to register and make annual returns.

Clause 151 amends *section 59B* to provide for the registration of a foreign exemption trust and give the Commissioner the power to backdate a registration if the Commissioner thinks that the trustee making an initially unsuccessful application makes reasonable efforts to meet the requirements. Some details of the information that a trustee is required to provide with the application for registration are adjusted. Time limits are inserted for the contact trustee of a foreign exemption trust to notify the Commissioner that the trustee anticipates ceasing to be the contact trustee and to provide details of the replacement contact trustee.

Clause 152 amends *section 59C*, which gives the time limits for trustees to apply for registration of trusts and provide the required returns, consequentially on the expansion of the group of trusts with exempt foreign income that are required to register and make annual returns.

Clause 153 amends *section 59D*, which provides for the annual return required from trustees of a trust with exempt foreign income, consequentially on the expansion of the group of trusts to which the requirements apply.

Clause 154 inserts *new section 59DB*, giving to the Commissioner a power to deregister a foreign exemption trust after giving 30 days notice if the Commissioner considers that the trust did not satisfy the requirements for registration at the time of application or ceases to satisfy the requirements after the registration was made.

Clause 155 amends *section 59E*, consequentially on the expansion of the group of trusts with exempt foreign income that are required to register and make annual returns.

Clause 156 inserts *new section 61B* to provide information disclosure requirements for registered persons who acquire high-value assets with the intention of using them to make taxable supplies.

Clause 157 amends *section 68CB*, which sets out the process for general approval of a person's research and development activities. *Subclause (2)* deletes *section 68CB(1)(d)* to remove the requirement that a person must notify the Commissioner that there have been no material changes for their business in order to obtain general approval. *Subclause (3)* clarifies that a taxpayer who has materially changed their research and development activities, and who wants their existing general approval to cover the changed activities, must apply for a variation to their existing general approval.

Clause 158 amends *section 68CC*, which sets out the process for obtaining criteria and methodologies approval for significant R&D performers. *Subclause (1)* clarifies that a taxpayer who has materially changed their criteria and methodologies, and who wants their existing approval to cover the changes, must apply for a variation to their existing criteria and methodologies approval.

Clause 159 amends *section 89AB* to remove redundant cross-references.

Clause 160 amends *section 89C* to add a reference to the new penalty provisions related to reporting requirements for reporting platform operators and sellers operating on digital platforms and to provide for extinguishing of carry forward amounts as part of debt remission.

Clause 161 amends *section 91C* to remove a redundant cross-reference.

Clause 162 inserts *new section 94D* related to the assessment of penalties under the new reporting rules, the model rules, for both a reporting platform operator and a seller operating on the digital platform.

Clause 163 inserts *new section 108AC*, which establishes a time bar for amending an assessment of student loan deductions.

Clause 164 amends *section 120B* to provide the circumstances in which a non-resident employer is excluded from the requirement to pay interest on late payments.

Clause 165 amends *section 124G* to remove unnecessary references to adoption.

Clause 166 amends *section 139A* to repeal *section 139A(9)*. *Section 139A(9)* is no longer needed now that all tax types have migrated to Inland Revenue's START software platform.

Clause 167 inserts *new section 139AC*, which provides for a civil penalty if a trustee of a foreign exemption trust fails to meet the requirements to register, or provide information for, the trust.

Clause 168 amends *section 141* to remove redundant cross-references.

Clause 169 amends *section 141ED* to provide for the circumstances when a non-resident employer is not liable for a penalty for unpaid amounts of employer's withholding payments.

Clause 170 inserts *new section 141GC* to provide a grace period to allow for the payer of a schedular payment to meet or correct their tax obligations.

Clause 171 amends *section 142B* to remove a redundant cross-reference.

Clause 172 inserts *new sections 142J and 142K* to set out the penalties that may apply to reporting platform operators and sellers on digital platforms. *Section 142J* contains penalties that could apply reporting platform operators for the purposes of the new information reporting requirements. *Section 142K* contains penalties that could apply to sellers on digital platforms for the purposes of the new information reporting requirements.

Clause 173 amends *section 143*. *Subclause (1)* replaces *subsection (1B)*, consequentially on the expansion of the group of trusts with exempt foreign income that are required to register and make annual returns. *Subclause (2)* excludes the reporting requirements under the model standards for digital platforms from the ambit of the section.

Clause 174 amends *section 167* to ensure that all KiwiSaver employer contributions have the correct preferential debt status.

Clause 175 amends *section 173M* to remove unnecessary references to adoption.

Clause 176 amends *section 177B* to remove a redundant cross-reference.

Clause 177 amends *section 177C* to provide for extinguishing of carry forward amounts as part of debt remission.

Clause 178 amends *section 185E* to insert a cross reference to *new section 185S* in relation to the new reporting standards under the model rules.

Clause 179 inserts a *new heading and section 185S* for the model reporting standards for digital platforms. The section sets out the requirements for reporting platform operators and for sellers of goods or services on the platform.

Clause 180 inserts *new section 226F* to provide for regulations to be made for changes in the model reporting standards for digital platforms.

Clause 181 amends *schedule 4* for information about employment income to insert references to fringe benefits and benefits arising from contributions to foreign superannuation schemes into table 1 as items to be reported to the Commissioner.

Clause 182 inserts *new schedule 6B* for the details related to the reporting of schedular payment information.

Clause 183 amends *schedule 7* to insert a provision relating to information about the GST registration status of a person that may be provided to operators of electronic marketplaces. The section also removes a redundant cross-reference.

Part 5

Amendments to other enactments

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

Clause 184 provides that *clauses 185 to 191* amend the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022.

Clauses 185, 190, and 191 amend various sections to correct mistakes in commencement and application.

Clause 186 amends *section 5* to correct nomenclature.

Clause 187 amends *section 19* to correct mistakes in the tax invoicing rules for GST.

Clause 188 repeals *section 21(1)* and reintroduces the same substantive amendment in clause 117 in order to correct a commencement date error.

Clause 189 amends *section 40* to correct a mistake in the tax invoicing rules for GST.

Amendment to Income Tax Act 2004

Clause 192 amends *section EW 15C* of the Income Tax Act 2004, as a remedial matter, to ensure that, for financial assets accounted for under the fair value method, a movement in fair value that reverses a decline in credit quality does not result in assessable income.

Amendment to Companies Act 1993

Clause 193 amends *schedule 7* of the Companies Act 1993 to ensure that all Kiwi-Saver employer contributions have the correct preferential debt status.

Amendment to Insolvency Act 2006

Clause 194 amends *section 274* of the Insolvency Act 2006 to ensure that all Kiwi-Saver employer contributions have the correct preferential debt status.

Hon David Parker

Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2)

Government Bill

Contents

		Page
1	Title	10
2	Commencement	10
Part 1		
Annual rates of income tax		
3	Annual rates of income tax for 2022–23 tax year	11
Part 2		
Amendments to Income Tax Act 2007		
4	Amendments to Income Tax Act 2007	11
5	Section AA 1 amended (Purpose of Act)	12
6	Section CB 6A amended (Disposal within 10 years: Bright-line test for residential land)	12
7	Section CB 6AB amended (Residential land transferred in relation to certain family trusts and other capacities)	12
8	Section CB 6AC amended (Residential land transferred in relation to certain Māori family trusts)	14
9	Section CB 16A amended (Main home exclusion for disposal within 10 years)	14
10	Section CD 1 amended (Dividend)	15
11	Section CD 14 amended (Notional distributions of emigrating companies)	15
12	Section CD 15 amended (Tax credits linked to dividends)	15
13	Section CD 26 amended (Capital distributions on liquidation or emigration)	15
14	Section CD 36 amended (Foreign investment fund income)	15

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

15	Section CD 43 amended (Available subscribed capital (ASC amount))	16
16	Section CE 1 amended (Amounts derived in connection with employment)	16
17	New section CE 1F inserted (Treatment of amounts derived by cross-border employees)	16
	CE 1F Treatment of amounts derived by cross-border employees	16
18	Section CE 1F amended (Treatment of amounts derived by cross-border employees)	17
19	Section CQ 5 amended (When FIF income arises)	18
20	Section CR 4 amended (Income for general insurance outstanding claims reserve)	18
21	Section CV 12 amended (Trustees: amounts received after person's death)	18
22	Section CW 10 amended (Dividend within New Zealand wholly-owned group)	18
23	Section CX 9 amended (Subsidised transport)	19
24	Section CX 10 amended (Employment-related loans)	19
25	Section CX 13 amended (Contribution to superannuation schemes)	19
26	Section CX 14 amended (Contributions to sickness, accident, or death benefit funds)	20
27	New section CX 19C inserted (Certain public transport)	20
	CX 19C Certain public transport	20
28	Section CX 26 amended (Non-liable payments)	20
29	Section CX 35 amended (Meaning of employee share loan)	20
30	Section CX 47 amended (Government grants to businesses)	21
31	Section CX 57B amended (Amounts derived during periods covered by calculation methods)	21
32	Section CZ 39 amended (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)	21
33	Section DB 53 amended (Attributed PIE losses of certain investors)	21
34	New heading and new section DB 68 inserted	21
	<i>Utilities distribution assets</i>	
	DB 68 Amounts paid for utilities distribution assets	22
35	Section DD 11 amended (Some definitions)	22
36	Section DF 1 amended (Government grants to businesses)	22
37	Section DG 5 amended (Meaning and treatment of interest expenditure for this subpart)	22
38	Section DG 11 amended (Interest expenditure: close companies)	23
39	Section DH 6 amended (Interposed residential property percentage)	23
40	Section DH 7 amended (Grandparented residential interest)	23

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

41	Section DH 9 repealed (Exception to limited denial of deductions: loans denominated in foreign currencies)	23
42	Section DH 12 amended (Valuation)	23
43	Section DN 6 amended (When FIF loss arises)	23
44	Section DW 4 amended (Deduction for general insurance outstanding claims reserve)	23
45	Section EE 6 amended (What is depreciable property?)	24
46	Section EE 7 amended (What is not depreciable property?)	24
47	Section EE 31 amended (Annual rate for item acquired in person’s 1995–96 or later income year)	25
48	Section EW 15D amended (IFRS financial reporting method)	25
49	Section EW 46C amended (Consideration when debt remitted within economic group)	25
50	New section EW 46D inserted (Consideration when insolvent company’s debt repaid with consideration received for issuing shares)	25
	EW 46D Consideration when insolvent company’s debt repaid with consideration received for issuing shares	25
51	Section EX 20B amended (Attributable CFC amount)	26
52	Section EX 20C amended (Net attributable CFC income or loss)	27
53	Section EX 38 amended (Exemptions for employee share schemes)	27
54	Section EX 46 amended (Limits on choice of calculation methods)	27
55	Section EX 52 amended (Fair dividend rate annual method)	27
56	Section EX 53 amended (Fair dividend rate periodic method)	27
57	Section EX 59 amended (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method)	28
58	Section EY 24 amended (Outstanding claims reserving amount: non-participation policies not annuities)	28
59	Section FC 9 amended (Residential land transferred to executor, administrator, or beneficiary on death of person)	29
60	Section FL 1 amended (What this subpart does)	29
61	Section FL 2 replaced (Treatment of emigrating companies and their shareholders)	29
	FL 2 Treatment of companies that become non-resident and their shareholders	29
62	New section FL 3 inserted (Treatment of companies that start being treated as non-resident and their shareholders)	30
	FL 3 Treatment of companies that start being treated as non-resident and their shareholders	30
63	Section FM 31 amended (Eligibility rules)	31
64	Section FN 4 amended (Eligibility rules)	31
65	Section GB 28 amended (Interpretation of terms used in section GB 27)	31

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

66	Section GC 13 amended (Calculation of arm’s length amounts)	32
67	Section HA 7 amended (Shareholding requirements)	32
68	Section HB 13 amended (LTC elections)	32
69	Section HC 8 amended (Amounts received after person’s death)	32
70	Section HC 26 amended (Foreign-sourced amounts: resident trustees)	32
71	Section HC 36 amended (Trusts and minor beneficiary rule)	32
72	Section HM 35 amended (Determining net amounts and taxable amounts)	33
73	Section HM 40 replaced (Deductions for attributed PIE losses for zero-rated and exiting investors)	33
	HM 40 Deductions for attributed PIE losses for zero-rated and exiting investors equal to amount attributed	33
74	Section HR 12 amended (Non-exempt charities: treatment of tax-exempt accumulations)	33
75	New section IB 2B inserted (When subsequent ownership continuity breach regarded as occurring)	33
	IB 2B When subsequent ownership continuity breach regarded as occurring	33
76	Section IC 4 amended (Common ownership: wholly-owned groups of companies)	34
77	Section IC 5 amended (Company B using company A’s tax loss)	34
78	Section IC 7 amended (Residence of company A)	34
79	New section IZ 7B inserted (Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91)	34
	IZ 7B Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91	35
80	Section LE 5 amended (Beneficiaries of trusts)	35
81	Section LK 1 amended (Tax credits relating to attributed CFC income)	35
82	Section LT 1 amended (Tax credits for petroleum miners)	35
83	Section OB 2 amended (Australian companies choosing to have imputation credit accounts)	35
84	Section OB 62 amended (Retrospective attachment of imputation credits)	36
85	Section RA 6 amended (Withholding and payment obligations for passive income)	36
86	Section RA 15 amended (Payment dates for interim and other tax payments)	36
87	Section RA 18 amended (Payment date for emigrating companies)	37
88	Section RC 5 amended (Methods for calculating provisional tax liability)	37
89	Section RD 5 amended (Salary or wages)	38
90	Section RD 8 amended (Scholar payments)	38

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

91	Section RD 23 repealed (Bonds given by employers of certain non-resident employees)	38
92	Section RD 24 amended (Exemptions for non-resident contractors)	38
93	New section RD 62B inserted (Obligations of cross-border employees when FBT liability not paid)	38
	RD 62B Obligations of cross-border employees when FBT liability not paid	39
94	New section RD 71B inserted (Obligations of cross-border employees when amounts of tax not paid)	39
	RD 71B Obligations of cross-border employees when amounts of tax not paid	39
95	Section RF 2 amended (Non-resident passive income)	40
96	Section RF 2C amended (Meaning of non-resident financial arrangement income)	40
97	Section RF 12G amended (Choosing to treat income as non-resident financial arrangement income)	41
98	Section YA 1 amended (Definitions)	41
99	Section YB 4 amended (Two relatives)	45
100	Schedule 15 amended (Excepted residential land)	45
101	Schedule 32 amended (Recipients of charitable or other public benefit gifts)	45

Part 3

Amendments to Goods and Services Tax Act 1985

102	Amendments to Goods and Services Tax Act 1985	45
103	Section 2 amended (Interpretation)	45
104	Section 2A amended (Meaning of associated persons)	46
105	Section 5 amended (Meaning of term supply)	46
106	Section 8 amended (Imposition of goods and services tax on supply)	48
107	Section 8B amended (Remote services: determining residence of recipients)	49
108	Section 8BB amended (Certain supplies by non-residents: determining whether recipient is registered person)	49
109	New section 8C inserted (Supplies of listed services)	49
	8C Supplies of listed services	49
110	Section 9 amended (Time of supply)	51
111	Section 10 amended (Value of supply of goods and services)	51
112	Section 11 amended (Zero-rating of goods)	51
113	Section 14 amended (Exempt supplies)	51
114	Section 15 amended (Taxable periods)	52
115	Section 19K amended (Taxable supply information: supplies by registered person)	52
116	Section 20 amended (Calculation of tax payable)	52
117	Section 20G repealed (Treatment of supplies of certain assets)	56

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

118	Section 21 amended (Adjustments for apportioned supplies)	56
119	Section 21B amended (Adjustments when person or partnership becomes registered after acquiring goods and services)	56
120	Section 21D amended (Calculating amount of adjustment)	56
121	Section 21F amended (Treatment on disposal)	56
122	Section 21FB replaced and amended (Treatment when use changes to total taxable or non-taxable use)	57
	21FB Treatment when percentage of taxable use permanently changes	57
123	Section 21G amended (Definitions and requirements for apportioned supplies and adjustment periods)	58
124	Section 21HB amended (Transitional rules related to treatment of dwellings)	58
125	Section 26AA amended (Marketplace operators: bad debts for amounts of tax)	58
126	Section 51 amended (Persons making supplies in course of taxable activity to be registered)	59
127	Section 58 amended (Personal representative, liquidator, receiver, etc)	59
128	Section 60 amended (Agents and auctioneers)	59
129	Section 60C amended (Electronic marketplaces)	59
130	New section 60H inserted (Information requirements for underlying suppliers operating through electronic marketplaces)	60
	60H Information requirements for underlying suppliers operating through electronic marketplaces	61
131	Section 75 amended (Keeping of records)	61
132	Section 77 amended (New Zealand or foreign currency)	61
133	New section 81B inserted (Limitation on amending assessments for legislative charges)	61
	81B Limitation on amending assessments for legislative charges	61
134	New section 85D inserted (Transitional provision for certain supplies of listed services)	62
	85D Transitional provision for certain supplies of listed services	62
135	New section 90 inserted and repealed (Transitional regulation making power: legislative charges)	62
	90 Transitional regulation making power: legislative charges	62
136	New section 91 inserted (Certain private goods removed from tax base before 1 April 2025)	63
	91 Certain private goods removed from tax base before 1 April 2025	63
137	New schedule inserted (Non-taxable legislative charges)	63

**Part 4
Amendments to the Tax Administration Act 1994**

138	Amendments to the Tax Administration Act 1994	63
139	Section 3 amended (Interpretation)	64
140	Section 4A amended (Construction of certain provisions)	65
141	Section 22 amended (Keeping of business and other records)	65
142	Section 23I amended (Employment income information requirements for employees)	65
143	New subpart heading and section 23R inserted	65
	Subpart 3D—Schedular payment information	
	23R Information reporting: schedular payments made to non-resident contractors	66
144	Section 24H amended (Exempt schedular payments)	66
145	New section 24HB inserted (Schedular payments: tax obligations undertaken by nominated persons)	66
	24HB Schedular payments: tax obligations undertaken by nominated persons	66
146	Section 25E amended (Who must provide investment income information to Commissioner)	67
147	Section 25G amended (Information on dividends)	67
148	Section 29 amended (Shareholder dividend statement to be provided by company)	67
149	Section 43B amended (Trustees of non-active trusts and administrators or executors of non-active estates may be excused from filing returns)	68
150	Section 59BA amended (Annual return for trusts)	69
151	Section 59B amended (Foreign trust with resident foreign trustee: registration and disclosure)	69
152	Section 59C amended (Time limits for registration and disclosure of changes)	71
153	Section 59D amended (Annual return for foreign trust)	71
154	New section 59DB inserted (Deregistration of foreign exemption trusts)	73
	59DB Deregistration of foreign exemption trusts	73
155	Section 59E amended (Fees: regulations and exemption)	73
156	New section 61B inserted (Disclosure requirements for high-value assets intended to be used in making taxable supplies)	74
	61B Disclosure requirements for high-value assets intended to be used in making taxable supplies	74
157	Section 68CB amended (Research and development tax credits: general approval)	74
158	Section 68CC amended (Research and development tax credits: greater than \$2 million approval)	75
159	Section 89AB amended (Response periods)	75

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

160	Section 89C amended (Notices of proposed adjustment required to be issued by Commissioner)	75
161	Section 91C amended (Taxation laws in respect of which binding rulings may be made)	75
162	New section 94D inserted (Assessment of penalties related to requirements under model rules)	76
	94D Assessment of penalties related to requirements under model rules	76
163	New section 108AC inserted (Time bar for amending assessment of student loan deductions)	76
	108AC Time bar for amending assessment of student loan deductions	76
164	Section 120B amended (Persons excluded)	77
165	Section 124G amended (Refusal, removal, or disallowance of status of tax agents, representatives, and nominated persons)	77
166	Section 139A amended (Late filing penalty for certain returns)	77
167	New section 139AC inserted (Penalty for trustee’s failure to register, provide information for, foreign exemption trust)	77
	139AC Penalty for trustee’s failure to register, provide information for, foreign exemption trust	77
168	Section 141 amended (Tax shortfalls)	78
169	Section 141ED amended (Penalty for unpaid amounts of employers’ withholding payments)	78
170	New section 141GC inserted (Grace periods for certain schedular payments)	78
	141GC Grace periods for certain schedular payments	78
171	Section 142B amended (Due date for shortfall penalties)	79
172	New sections 142J and 142K inserted	79
	142J When reporting requirements for operators under model rules for digital platforms not met	79
	142K When reporting requirements for sellers operating on digital platforms not met	80
173	Section 143 amended (Absolute liability offences and strict liability offences)	80
174	Section 167 amended (Recovery of tax and payments from employers or PAYE intermediaries)	81
175	Section 173M amended (Transfer of excess tax to another taxpayer)	81
176	Section 177B amended (Instalment arrangements)	81
177	Section 177C amended (Write-off of tax by Commissioner)	81
178	Section 185E amended (Purpose)	82
179	New heading and section 185S inserted	82
	<i>Model reporting standards for digital platforms</i>	
	185S Requirements for reporting platform operators and sellers	82

**Taxation (Annual Rates for 2022–23, Platform
Economy, and Remedial Matters) Bill (No 2)**

180	New section 226F inserted (Application of changes to model reporting standards for digital platforms)	83
	226F Application of changes to model reporting standards for digital platforms	83
181	Schedule 4 amended (Reporting of employment income information)	83
182	New schedule 6B inserted (Reporting of schedular payment information)	83
183	Schedule 7 amended (Disclosure rules)	84
	3B GST registration status	84

Part 5

Amendments to other enactments

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

184	Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022	84
185	Section 2 amended (Commencement)	84
186	Section 5 amended (Section 2 amended (Interpretation))	85
187	Section 19 amended (New cross-headings and sections 19E to 19Q inserted)	85
	19F Records of taxable supplies	86
	19L Taxable supply information: supplies by member of GST group or supplier group	87
188	Section 21 amended (Section 20 amended (Calculation of tax payable))	87
189	Section 40 amended (Section 75 amended (Keeping of records))	87
190	Section 168 amended (Section RP 17 amended (Tax pooling intermediaries))	88
191	Section 170 amended (Section RP 19 amended (Transfers from tax pooling accounts))	88

Amendment to Income Tax Act 2004

192	Amendment to Income Tax Act 2004	88
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Amendment to Companies Act 1993

193	Amendment to Companies Act 1993	88
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Amendment to Insolvency Act 2006

194	Amendment to Insolvency Act 2006	88
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Schedule

New schedule inserted into Goods and Services Tax Act 1985

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022**.

2 Commencement

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- (1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in this section.
- (2) **Section 192** comes into force on 1 April 2007.
- (3) **Section 88(1) and (2)** comes into force on 1 October 2007.
- (4) **Sections 12, 34, 45, 46, 48, 80, and 98(22), (23), and (24)** come into force on 1 April 2008. 10
- (5) **Sections 159, 161, 168, 176, and 183(2)** come into force on 1 April 2009.
- (6) **Sections 68, 105(5), 113(1), 116(7) and (8), and 118(2) and (3)** come into force on 1 April 2011.
- (7) **Section 116(18)** comes into force on 1 April 2014. 15
- (8) **Sections 122(1) and 123(2) and (4)** come into force on 30 June 2014.
- (9) **Sections 55, 56, and 57** come into force on 1 July 2014.
- (10) **Section 70(2) and (4)** comes into force on 21 February 2017.
- (11) **Sections 63, 64, 77, 78, 79, 81, 83, and 98(2) and (9)** come into force on 15 March 2017. 20
- (12) **Section 88(3), (4), (5), and (6)** comes into force on 1 April 2017.
- (13) **Sections 24, 29, 32(1), (2), (3), and (4), 49, 76, and 98(15) and (21)** come into force on 29 March 2018.
- (14) **Sections 19, 43, 53, and 98(16)** come into force on 29 September 2018.
- (15) **Sections 30 and 36** come into force on 18 March 2019. 25
- (16) **Section 54** comes into force on 26 June 2019.
- (17) **Sections 33, 73, 75, 157, and 158** come into force on 1 April 2020.
- (18) **Sections 6(1), (3), (4), (5), and (6), 7(2), (4), and (5), 8(3), 9, 35, 37, 38, 39, 40, 41, 42, and 98(4), (6), and (18)** come into force on 27 March 2021. 30
- (19) **Section 149** comes into force on 1 April 2021.
- (20) **Sections 98(3) and 100** come into force on 1 October 2021.
- (21) **Section 101(2)** comes into force on 15 January 2022.
- (22) **Sections 66, 98(12) and (26), and 139(5)** come into force on 20 January 2022. 35
- (23) **Section 101(4)** comes into force on 15 February 2022.

- (24) **Sections 82, 116(1), (5), (19), and (20), 185, 186, 187, 188, 189, 190, and 191** come into force on 30 March 2022.
- (25) **Sections 21, 69, and 101(1) and (6)** come into force on 1 April 2022.
- (26) **Section 101(8)** comes into force on 11 April 2022.
- (27) **Sections 10, 11, 13, 15, 22, 47, 60, 61, 62, 84, 85, 87, 95, 96, 97, 98(7), (8), and (19), 104, 133, 139(2), 146, 147, and 148** come into force on the 30 August 2022. 5
- (28) **Sections 20, 44, 58, 98(10), (13), (14), and (25)** come into force on 1 January 2023.
- (29) **Sections 14, 16, 17, 23, 27, 31, 51, 52, 72, 93, 94, 98(5), 101(5), 105(2), (6), (7), and (8), 113(2), 115(2), 116(2), (6), (9), (12), (17), (21), (23), and (24), 118(1), 121(1) and (3), 122(2), 124, 136, 140, 142, 160(2), 163, 164, 166, 169, 174, 177, 181(1), 193, and 194** come into force on 1 April 2023. 10
- (30) **Section 105(3)** comes into force on 1 July 2023. 15
- (31) **Sections 139(3), (6), and (8), 141, 160(1), 162, 172, 173(2), 178, 179, and 180** come into force on 1 January 2024.
- (32) **Sections 18, 25, 26, 28, 86, 89, 90, 91, 92, 98(11), 103(2), (3), (4), (5), (6), and (7), 105(4), 106(1), 109, 110, 111, 114, 115, 116(3), (4), (13), (14), (15), (16), (22), (25), and (26), 117, 119, 120, 123(1), (3), and (5), 125, 126, 128, 129(1), (3), (4), and (5), 130, 131, 132, 143, 144, 145, 170, 181(2) and (3), 182, and 183(1)** come into force on 1 April 2024. 20
- (33) **Section 101(3)** comes into force on 1 April 2026.
- (34) **Sections 105(1) and 135(2)** come into force on 30 June 2026.
- (35) **Section 101(7)** comes into force on 1 April 2027. 25

Part 1

Annual rates of income tax

- 3 **Annual rates of income tax for 2022–23 tax year**
Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2022–23 tax year, be paid at the basic rates specified in schedule 1 of that Act. 30

Part 2

Amendments to Income Tax Act 2007

- 4 **Amendments to Income Tax Act 2007**
This Part amends the Income Tax Act 2007. 35

5 Section AA 1 amended (Purpose of Act)

- (1) In section AA 1(a), replace “net income” with “a net amount of income”.
- (2) In section AA 1, list of defined terms,—
 - (a) insert “amount” and “income”:
 - (b) delete “net income”.

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6 Section CB 6A amended (Disposal within 10 years: Bright-line test for residential land)

- (1) After section CB 6A(1A), insert:

When this section does not apply

- (1AB) This section does not apply to a person’s disposal of residential land if:
 - (a) the person first acquired an estate or interest in the land before 27 March 2021:
 - (b) the land meets the requirements of sections **CB 6AB, CB 6AC or CB 6AE**, and the transferor first acquired an estate or interest in the land before 27 March 2021.

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- (2) In section CB 6A(2B), replace “person.” with “person (*see also*: section FC 9 (Residential land transferred to executor, administrator, or beneficiary on death of person).”
- (3) In section CB 6A(5B), replace “acquired subsequent to” with “converted subsequent to”.
- (4) In section CB 6A(5B), replace “the date the joint tenancy was acquired” with “the same as it was prior to the conversion”.
- (5) In section CB 6A(5C), replace “acquired subsequent to” with “converted subsequent to”
- (6) In section CB 6A(5C), replace “the date the tenancy in common in equal shares was acquired” with “the same as it was prior to the conversion”.

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7 Section CB 6AB amended (Residential land transferred in relation to certain family trusts and other capacities)

- (1) Replace section CB 6AB(1), (2), and (3) with:

Family trusts: transfers to trusts

- (1) The bright-line acquisition date for land, when a trustee of a trust (**trust A**) disposes of the land, is the bright-line acquisition date that the transferor (the **transferors**) of the land to the trustee had, if the transferor transfers the land to the trustee on or after 1 April 2022 and—
 - (a) trust A is a rollover trust and the transferors are settlors and, at the time that the transferors transfer the land to the trustee,—
 - (i) the transferors are beneficiaries of trust A; and

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- (ii) at least 1 transferor is a principal settlor of trust A:
 - (b) the transferors are trustees of a trust (**head trust**) that is a rollover trust, and, for trust A,—
 - (i) all the beneficiaries are the same as for the head trust, and trust A is also a rollover trust: 5
 - (ii) all the natural person beneficiaries are either the same as, or close family associates of a principal settlor of, the head trust, and trust A is also a rollover trust.
- Family trusts: transfers to settlors*
- (2) The bright-line acquisition date for land, when a settlor (the **transferee**) of a trust (**trust A**) disposes of the land, is the bright-line acquisition date that the trustee of trust A had for the land, if the trustee transfers the land to the transferees on or after 1 April 2022 and— 10
 - (a) the transferees acquire proportionally the same amount of land they transferred to trust A and, at the time that the trustee transfers the land to the transferee,— 15
 - (i) the transferees are beneficiaries of trust A; and
 - (ii) at least 1 transferee is a principal settlor of trust A; and
 - (iii) trust A is a rollover trust:
 - (b) trust A is a rollover trust and all transferees are principal settlors at the time that the trustee transfers the land to the transferee and also at the time that the trustee acquired the land. 20
- Other capacities*
- (3) For the purposes of applying **subsections (1)(a) and (2)**, the transferors and transferees may have a different capacity from the capacity in which they became settlor (*for example*: LTC owner). 25
 - (2) In section CB 6AB(4), delete “, and must not be to or from a person in their capacity of settlor, beneficiary, or trustee”.
 - (3) Repeal section CB 6AB(5)(a).
 - (4) Replace section CB 6AB(5)(d) with: 30
 - (d) all beneficiaries are close family beneficiaries.
 - (5) After section CB 6AB(6)(a), insert:
 - (ab) a trustee of another trust and at least 1 beneficiary of the other trust is a close family associate of a beneficiary of the relevant trust:
 - (6) Replace CB 6AB(6)(c) with: 35
 - (c) a company in which a 50% or more voting interest, or a 50% or more market value interest if a market value circumstance exists, is owned by a beneficiary of the trust that is—

- (i) a principal settlor of the trust:
- (ii) a close family associate of another beneficiary that is a principal settlor of the trust:

- 8 Section CB 6AC amended (Residential land transferred in relation to certain Māori family trusts)** 5
- (1) Replace section CB 6AC(1), (2), and (3) with:
- Transfers to trusts*
- (1) The bright-line acquisition date for land, when a Māori trustee of a trust (**trust A**) disposes of the land, is the bright-line acquisition date that the transferor (the **transferors**) of the land to the Māori trustee had, if the transferor transfers the land to the Māori trustee on or after 1 April 2022 and— 10
- (a) trust A is a Māori rollover trust and the transferors are settlors and, at the time that the transferors transfer the land to the trustee, the transferors are beneficiaries of trust A:
 - (b) the transferors are Māori trustees of a trust (**head trust**) that is a Māori rollover trust, and, for trust A, all the beneficiaries are the same as for the head trust, and trust A is also a Māori rollover trust. 15
- Transfers to settlors*
- (2) The bright-line acquisition date for land, when a settlor (the **transferee**) of a trust (**trust A**) disposes of the land, is the bright-line acquisition date that the Māori trustee of trust A had for the land, if the Māori trustee transfers the land to the transferees on or after 1 April 2022 and the transferees acquire proportionally the same amount of land they transferred to trust A and,— 20
- (a) at the time that the Māori trustee transfers the land to the transferee, the transferees are beneficiaries of trust A; and 25
 - (b) at the time that the trustee transfers the land to the transferee, trust A is a Māori rollover trust; and
 - (c) the transferees are settlors of trust A.
- Other capacities*
- (3) For the purposes of applying **subsection (1)(a) and (2)**, the transferors and transferees may have a different capacity from the capacity in which they became settlor (*for example*: LTC owner). 30
- (2) Repeal section CB 6AC(4)(a).
- (3) In section CB 6AC(5), delete “, under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?)”. 35
- 9 Section CB 16A amended (Main home exclusion for disposal within 10 years)**
- Repeal section CB 16A(7).

10 Section CD 1 amended (Dividend)

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

Exception: certain dividends derived by dual resident companies

- (3) Despite subsection (2), the income is allocated to the income year of the person in which the DRCD deferral date falls if the dividend—
- (a) is derived by a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand; and
 - (b) meets the requirements set out in section CW 10(1)(b) to (d), (5), and (6) (Dividend within New Zealand wholly-owned group).

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- (2) In section CD 1, list of defined terms, insert “company”, “double tax agreement”, “DRCD deferral date”, “New Zealand resident”, and “resident in New Zealand”.

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11 Section CD 14 amended (Notional distributions of emigrating companies)

- (1) In section CD 14(1), replace “(Treatment of emigrating companies and their shareholders)” with “or **FL 3** (which relate to the treatment of emigrating companies and their shareholders)”.
- (2) In section CD 14(2), after “section FL 2”, insert “or **FL 3**, as applicable”.

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12 Section CD 15 amended (Tax credits linked to dividends)

- (1) In section CD 15(1)(a), after “dividend”, insert “subject to any limitation to the imputation credit made under section LE 5 where the person is a beneficiary”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

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13 Section CD 26 amended (Capital distributions on liquidation or emigration)

In section CD 26(1)(b), replace “(Treatment of emigrating companies and their shareholders)” with “or **FL 3** (which relate to the treatment of emigrating companies and their shareholders)”.

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14 Section CD 36 amended (Foreign investment fund income)

- (1) After section CD 36(3), insert:

Distribution by Australian unit trust of funds from attributing interest in another Australian unit trust

- (4) An amount paid by a CFC to a person (the **CFC distribution**) is not a dividend if—
- (a) the CFC is a unit trust that is not subject under Australian law to income tax on its income in the same way as a company; and
 - (b) the CFC has an interest in a unit trust (the **FIF**) that is not subject under Australian law to income tax on its income in the same way as a company; and

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<p>(c) the interest of the CFC in the FIF is an attributing interest of the person (the indirect FIF interest) meeting the requirements of section EX 59(1); and</p> <p>(d) the CFC distribution is funded by a payment made by the FIF to the CFC arising from the indirect FIF interest.</p>	5
<p>(2) Subsection (1) applies for income years starting on or after 1 April 2023.</p>	
<p>15 Section CD 43 amended (Available subscribed capital (ASC) amount)</p>	
<p>In section CD 43(16), replace “(Treatment of emigrating companies and their shareholders)” with “or FL 3 (which relate to the treatment of emigrating companies and their shareholders)”.</p>	10
<p>16 Section CE 1 amended (Amounts derived in connection with employment)</p>	
<p>(1) Replace section CE 1(3B), other than the heading, with:</p> <p>(3B) For the treatment of PAYE income payments made to a cross-border employee who undertakes employment services in New Zealand, see section CE 1F.</p>	15
<p>(2) In section CE 1, list of defined terms, insert “cross-border employee”.</p>	15
<p>17 New section CE 1F inserted (Treatment of amounts derived by cross-border employees)</p>	
<p>After section CE 1E, insert:</p>	
<p>CE 1F Treatment of amounts derived by cross-border employees</p>	
<p><i>When this section applies</i></p>	
<p>(1) This section applies in certain circumstances when an employer pays a PAYE income payment to a cross-border employee who provides services in New Zealand. For this purpose, the payment may include an amount paid to the person after they have left New Zealand that is a payment for services provided by the person while they were in New Zealand.</p>	20
<p><i>Amounts treated as derived 20 days after payment</i></p>	
<p>(2) When the employee remains on the employer’s payroll system in a country or territory outside New Zealand, the PAYE income payment is treated as derived by them on the 20th day after payment when the employer chooses to deliver their employment income information under section 23J(3) of the Tax Administration Act 1994.</p>	30
<p><i>Employees undertaking tax obligations</i></p>	
<p>(3) When an amount of tax is not withheld or when payment is insufficient as described in section RD 21, RD 62B, or RD 71B, as applicable, the employee must undertake the tax obligations in relation to the PAYE income payment, employer superannuation cash contribution, or fringe benefit made or provided to them that would normally be placed on the employer and, for this purpose, may pay the initial amount of tax for the payment as a lump sum.</p>	35

Meaning of cross-border employee

- (4) For the purposes of this section and **sections CE 1(3B), RA 15(4B), RD 62B, and RD 71B, and sections 120B(bc) and 141ED(1B) and (3)(c)** of the Tax Administration Act 1994, a **cross-border employee**—
- (a) means—
- (i) for a person providing a service in New Zealand, an employee of a non-resident employer:
 - (ii) for a person providing a service outside New Zealand, a resident employee; and
- (b) includes a secondee or a person who provides a service for or on behalf of a person who is not resident in New Zealand.

Defined in this Act: amount of tax, cross-border employee, employee, employer, employer superannuation cash contribution, employment income information, fringe benefit, New Zealand, non-resident, pay, PAYE income payment, resident

18 Section CE 1F amended (Treatment of amounts derived by cross-border employees)

- (1) After **section CE 1F(3)**, insert:

Meeting or correcting employment-related tax obligations

- (3B) **Subsection (3C)** applies when—
- (a) the employer has taken reasonable measures to manage their employment-related tax obligations; and
 - (b) the employee is present in New Zealand for a period during which they—
 - (i) have breached a threshold under section CW 19 (Amounts derived during short-term visits):
 - (ii) have breached a threshold set out in a double tax agreement:
 - (iii) have received an extra pay in the period.

Grace period

- (3C) The employer has a 60-day period within which they must make a reasonable effort to meet or correct their tax obligations relating to the PAYE income payments, employer superannuation cash contributions, or fringe benefits made or provided to the employee for the time the employee was in New Zealand.

Timing

- (3D) The 60-day period referred to in **subsection (3C)** starts to run from the earlier of—
- (a) the date of the breach or the payment, as applicable:
 - (b) the date on which the employer could reasonably foresee that a breach or a payment, as applicable, will occur.

	<i>Grace period when employee has undertaken obligations</i>	
(3E)	When the employee has undertaken to meet their employment-related tax obligations under subsection (3) for the period during which they are in New Zealand, the employee may be treated as the employer for the purposes of subsection (3C) , making the grace period available to the employee.	5
(2)	In section CE 1F, list of defined terms, insert “double tax agreement”, “extra pay”.	
19	Section CQ 5 amended (When FIF income arises)	
(1)	In section CQ 5(1)(c)(viii), delete “purchase”.	
(2)	In section CQ 5, list of defined terms, insert “employee share scheme”.	10
20	Section CR 4 amended (Income for general insurance outstanding claims reserve)	
(1)	In section CR 4(1)(a)(i), after “Appendix D”, insert “or IFRS 17”.	
(2)	Subsection (1) applies for income years starting on or after 1 January 2023.	
21	Section CV 12 amended (Trustees: amounts received after person’s death)	15
(1)	In section CV 12, replace “section HC 8” with “ section HC 8(2) ”.	
(2)	Subsection (1) applies for the 2022–23 and later income years.	
22	Section CW 10 amended (Dividend within New Zealand wholly-owned group)	
(1)	Replace the heading to section CW 10(1) with “ <i>Exempt income: dividends within wholly-owned groups</i> ”.	20
(2)	Replace section CW 10(1)(a) with:	
	(a) it is derived by a company (the recipient) that is—	
	(i) not a foreign company; or	
	(ii) a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand; and	25
(3)	In section CW 10(1)(e), replace “met.” with “met; and”.	
(4)	After section CW 10(1)(e), insert:	
	(f) for a dividend derived by a company described in paragraph (a)(ii) , 1 or more of the following apply:	30
	(i) immediately after the dividend is derived by the recipient, the recipient has only shareholders that would have full relief from New Zealand tax under a double tax agreement on a dividend paid to them at that time by the recipient if the recipient were treated as being a company that is not a foreign company:	35

- (ii) the total amount of dividends derived by the recipient from the payer is less than \$1 million in each 12-month period that includes the date on which the dividend is derived by the recipient:
- (iii) the recipient becomes a company that is not a foreign company within 2 years of the date on which it derived the dividend and does not itself pay a dividend in the period that starts on the date on which it derived the dividend and ends on the date on which it becomes a company that is not a foreign company. 5
- (5) After section CW 10(1), insert:
- Exempt income: fully imputed dividends within wholly-owned groups* 10
- (1B) A dividend is exempt income to the extent to which it is fully imputed if—
- (a) it is derived by a company described in **subsection (1)(a)(ii)**; and
- (b) the requirements of subsection (1)(b) to (e) are met; and
- (c) the requirement of **subsection (1)(f)** is not met.
- (6) In section CW 10, list of defined terms, insert “amount”, “double tax agreement”, “fully imputed”, “New Zealand resident”, “New Zealand tax”, and “shareholder”. 15
- 23 Section CX 9 amended (Subsidised transport)**
- (1) In section CX 9, after “employee”, insert “, unless **section CX 19C** applies”.
- (2) **Subsection (1)** applies to fringe benefits provided on or after 1 April 2023. 20
- 24 Section CX 10 amended (Employment-related loans)**
- (1) In section CX 10(2)(b), replace “a share purchase scheme” with “an exempt ESS”.
- (2) In section CX 10, list of defined terms,—
- (a) insert “exempt ESS”: 25
- (b) delete “share purchase scheme”.
- 25 Section CX 13 amended (Contribution to superannuation schemes)**
- (1) Replace section CX 13(2) with:
- Exclusions*
- (2) This section does not apply to— 30
- (a) an employer’s superannuation cash contribution:
- (b) an employer’s contribution to a foreign superannuation scheme.
- (2) In section CX 13, list of defined terms, insert “foreign superannuation scheme”.

- 26 Section CX 14 amended (Contributions to sickness, accident, or death benefit funds)**
- (1) In section CX 14, replace “death benefit fund.” with “death benefit fund, except when the contribution is made to a foreign superannuation scheme.”
- (2) In section CX 14, list of defined terms, insert “foreign superannuation scheme”.
- 27 New section CX 19C inserted (Certain public transport)**
- (1) After section CX 19B, insert:
- CX 19C Certain public transport**
- A public transport fare that an employer subsidises mainly for the purposes of an employee travelling between their home and place of work is not a fringe benefit if the public transport service is by 1 or more of the following means:
- (a) bus:
- (b) train:
- (c) ferry:
- (d) tram:
- (e) cable car.
- Defined in this Act: employee, fringe benefit
- (2) **Subsection (1)** applies to fringe benefits provided on or after 1 April 2023.
- 28 Section CX 26 amended (Non-liable payments)**
- (1) In section CX 26, insert—
- (a) as a subsection heading after the section title, “*Employees’ PAYE income payments*”:
- (b) as a new subsection:
- Benefit provided during time spent in New Zealand*
- (2) Despite subsection (1), some or all of a benefit received by an employee who is not resident in New Zealand but derives a PAYE income payment that is taxable in New Zealand is a fringe benefit only to the extent to which the benefit relates to time spent by the employee in New Zealand.
- (2) In section CX 26, list of defined terms, insert “New Zealand” and “resident”.
- 29 Section CX 35 amended (Meaning of employee share loan)**
- (1) In section CX 35(2)(b), replace “a share purchase scheme” with “an exempt ESS”.
- (2) In section CX 35, list of defined terms, insert “exempt ESS”.

- 30 Section CX 47 amended (Government grants to businesses)**
- (1) In section CX 47(1)(a), replace “ or a public authority” with “, a public authority, or a public purpose Crown-controlled company”.
- (2) In section CX 47, list of defined terms, insert “public purpose Crown-controlled company”. 5
- 31 Section CX 57B amended (Amounts derived during periods covered by calculation methods)**
- In section CX 57B(1),—
- (a) replace “other than” with “, that is not”:
- (b) after “in a FIF”, insert “or a dividend to which **section CD 36(4)** (Foreign investment fund income) applies,”. 10
- 32 Section CZ 39 amended (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)**
- (1) In section CZ 39(5B), replace “acquired subsequent to” with “converted subsequent to”. 15
- (2) In section CZ 39(5B), replace “the joint tenancy was acquired” with “was the person’s bright-line acquisition date for the land prior to the conversion”.
- (3) In section CZ 39(5C), replace “acquired subsequent to” with “converted subsequent to”.
- (4) In section CZ 39(5C), replace “the tenancy in common was acquired” with “was the person’s bright-line acquisition date for the land prior to the conversion”. 20
- (5) In section CZ 39(7), replace “person.” with “person (*see also*: section FC 9 (Residential land transferred to executor, administrator, or beneficiary on death of person)).” 25
- 33 Section DB 53 amended (Attributed PIE losses of certain investors)**
- (1) Replace section DB 53(1)(b) with:
- (b) either—
- (i) the investor is a zero-rated investor; or
- (ii) the PIE calculates its tax liability using the quarterly calculation option under section HM 43 and the amount is attributed to an exiting investor to whom section HM 61 applies. 30
- (2) In section DB 53, list of defined terms, insert “zero-rated investor”.
- 34 New heading and new section DB 68 inserted**
- (1) After section DB 67, insert: 35

*Utilities distribution assets***DB 68 Amounts paid for utilities distribution assets***When this section applies*

- (1) This section applies when a person incurs expenditure in relation to either a utilities distribution asset or a utilities distribution network. 5

Determining whether expenditure of capital nature

- (2) For the purposes of determining whether the expenditure is capital in nature, the expenditure is treated as relating to a utilities distribution asset and is treated as not being incurred in relation to a utilities distribution network. 10

Defined in this Act: utilities distribution asset, utilities distribution network 10

- (2) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply for an income year before the 2024–25 income year, if the person has—

(a) taken a position in a return of income filed on or before 31 March 2022 that ignores **subsection (1)**: 15

(b) a binding ruling that ignores **subsection (1)**.

35 Section DD 11 amended (Some definitions)Repeal section DD 11, definition of **business premises**.**36 Section DF 1 amended (Government grants to businesses)**

- (1) In section DF 1(1)(a), replace “ or a public authority” with “, a public authority, or a public purpose Crown-controlled company”. 20

- (2) In section DF 1(1B), replace “or public authority” with “authority, public authority, or public purpose Crown-controlled company”.

- (3) In section DF 1(3)(a), replace “or public authority” with “authority, public authority, or public purpose Crown-controlled company”. 25

- (4) In section DF 1, list of defined terms, insert “public purpose Crown-controlled company”.

37 Section DG 5 amended (Meaning and treatment of interest expenditure for this subpart)

- (1) After section DG 5(2)(c), insert: 30

(d) despite paragraphs (a) and (b), a person must apportion an amount of interest expenditure for the income year using the formula in section DG 9(2) and treat the amount of the interest expenditure as the item **expenditure** in section DG 9(3)(a) to the extent to which—

- (i) the interest expenditure is for disallowed residential property that is an asset; or 35

- (ii) the interest expenditure is for acquiring an ownership interest in, or to become a beneficiary of, an interposed residential property holder and the interposed residential property holder has an asset at any time during the income year.
- (2) In section DG 5, list of defined terms, insert “beneficiary”, “disallowed residential property”, and “interposed residential property holder”. 5
- 38 Section DG 11 amended (Interest expenditure: close companies)**
- (1) Replace section DG 11(1)(b) with:
- (b) the company incurs interest expenditure for the income year.
- (2) In section DG 11, list of defined terms, delete “beneficiary”, “disallowed residential property”, and “interposed residential property holder”. 10
- 39 Section DH 6 amended (Interposed residential property percentage)**
- (1) In section DH 6(2)(a)(i), replace “DH 4(1) to (3)” with “DH 4”.
- (2) Repeal section DH 6(2)(a)(ii).
- 40 Section DH 7 amended (Grandparented residential interest)** 15
- In the heading to section DH 7(2), replace “balance” with “principal”.
- 41 Section DH 9 repealed (Exception to limited denial of deductions: loans denominated in foreign currencies)**
- Repeal section DH 9.
- 42 Section DH 12 amended (Valuation)** 20
- Replace the heading to section DH 12(2) with “*Other property*”.
- 43 Section DN 6 amended (When FIF loss arises)**
- (1) In section DN 6(1)(c)(viii), delete “purchase”.
- (2) In section DN 6, list of defined terms, insert “employee share scheme”.
- 44 Section DW 4 amended (Deduction for general insurance outstanding claims reserve)** 25
- (1) In section DW 4(1)(a)(i), after “Appendix D”, insert “, or IFRS 17”.
- (2) In section DW 4(4)(a)(i), after “year”, insert “, if subparagraphs (ii), **(iii)**, and **(iv)** do not apply”.
- (3) In section DW 4(4)(a)(ii), replace “insurer:” with “insurer; or”. 30
- (4) After section DW 4(4)(a)(ii), insert:
- (iii) the amount of the insurer’s reserve for outstanding claims liability, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year for general insurance contracts, if the insurer is a general insurer and the current year is the 35

- first year in which the insurer adopts IFRS 17 for general insurance contracts; or
- (iv) the amount of the insurer’s reserve for outstanding claims liability, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year for general insurance contracts, if the insurer is a life insurer with general insurance contracts who does not adopt IFRS 17 in the current year and the current year is the first year in which the insurer applies the definition of **present value (gross)** inserted by **section 98** of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022**:
- (5) In section DW 4(4B), formula, replace “risk margin” with “risk adjustment”.
- (6) In section DW 4(4C)(c),—
- (a) replace “**risk margin**” with “**risk adjustment**”:
- (b) replace “appropriate margin” with “appropriate adjustment”:
- (c) replace “the margin” with “the adjustment”.
- (7) **Subsections (1), (2), (3), (4), (5), and (6)** apply for income years starting on or after 1 January 2023.
- 45 Section EE 6 amended (What is depreciable property?)**
- (1) After section EE 6(2), insert:
- Property: utilities distribution assets*
- (2B) For the purposes of this subpart, utilities distribution assets are separate items of property.
- (2) In section EE 6, list of defined terms, insert “utilities distribution asset”.
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. However, **subsections (1) and (2)** do not apply for an income year before the 2024–25 income year, if the person has—
- (a) taken a position in a return of income filed on or before 31 March 2022 that ignores **subsection (1) and (2)**:
- (b) a binding ruling that ignores **subsection (1) and (2)**.
- 46 Section EE 7 amended (What is not depreciable property?)**
- (1) Before section EE 7(g), insert:
- (fc) a utilities distribution network, to the extent to which it is treated as an item of property separate from the relevant utilities distribution assets:
- (2) In section EE 7, list of defined terms, insert “utilities distribution asset” and “utilities distribution network”.

- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. However, **subsections (1) and (2)** do not apply for an income year before the 2024–25 income year, if the person has—
- (a) taken a position in a return of income filed on or before 31 March 2022 that ignores **subsections (1) and (2)**: 5
 - (b) a binding ruling that ignores **subsections (1) and (2)**.
- 47 Section EE 31 amended (Annual rate for item acquired in person’s 1995–96 or later income year)**
- In section EE 31(1), replace “(Treatment of emigrating companies and their shareholders)” with “or **FL 3(2)** (which relate to the treatment of emigrating companies and their shareholders)”. 10
- 48 Section EW 15D amended (IFRS financial reporting method)**
- Replace section EW 15D(3)(a) with:
- (a) for a financial arrangement accounted for under the fair value method, a movement in fair value— 15
 - (i) through a decline in the credit quality of the arrangement; or
 - (ii) through an improvement in the credit quality of the arrangement to the extent to which it offsets earlier movements in fair value described in **subparagraph (i)**:
- 49 Section EW 46C amended (Consideration when debt remitted within economic group)** 20
- (1) In section EW 46C(6), definition of **nominal shares**, replace “a share purchase scheme” with “an exempt ESS”.
 - (2) In section EW 46C, list of defined terms, insert “exempt ESS”.
- 50 New section EW 46D inserted (Consideration when insolvent company’s debt repaid with consideration received for issuing shares)** 25
- After section EW 46C, insert:
- EW 46D Consideration when insolvent company’s debt repaid with consideration received for issuing shares**
- When this section applies* 30
- (1) This section applies when—
 - (a) a company is a debtor; and
 - (b) the debtor is insolvent; and
 - (c) the debtor or a person (**person A**) associated with the debtor enters into an arrangement with another person (**person B**); and 35

(d)	under the arrangement, the debtor or person A issues shares to person B for consideration; and	
(e)	the terms of the arrangement require the debtor or person A to use some or all of the consideration to pay an amount of the debtor's debt to the creditor; and	5
(f)	section EW 46C would not apply if the amount of the debtor's debt is remitted; and	
(g)	the debtor or person A uses some or all of the consideration to pay the amount of the debtor's debt to the creditor.	
	<i>Consideration</i>	10
(2)	The debtor or person A, as applicable, is treated as—	
(a)	not having paid the amount of the debtor's debt to the creditor; and	
(b)	having made a payment, at the time the shares were issued, of an amount of the debtor's debt to the creditor equal to the amount calculated using the formula in subsection (3) .	15
	<i>Formula</i>	
(3)	The formula is—	
	$\text{shares' market value} \times \text{repayment} \div \text{total consideration.}$	
	<i>Definition of items in formula</i>	
(4)	In the formula,—	20
(a)	shares' market value is the market value of the shares issued to person B at the time they were issued:	
(b)	repayment is the amount of the debtor's debt to the creditor that is paid using consideration received for the issue of the shares to person B:	
(c)	total consideration is the total amount of consideration paid by person B for the issue of the shares.	25
	Defined in this Act: amount, arrangement, associated person, company, consideration, market value, pay, share	

51 Section EX 20B amended (Attributable CFC amount)

(1)	Replace section EX 20B(3)(c) with:	30
(c)	an amount that is not a distribution from an associated non-attributing active CFC and is—	
(i)	a deductible foreign equity distribution, other than from an attributing interest that is an income interest in a FIF meeting the requirements of section EX 59(1):	35
(ii)	a distribution for fixed-rate foreign equity:	
(2)	Subsection (1) applies for income years starting on or after 1 April 2023.	

- 52 Section EX 20C amended (Net attributable CFC income or loss)**
- (1) In section EX 20C(10)(b), after “of the CFC”, insert “, other than a deductible foreign equity distribution from an attributing interest that is an income interest in a FIF meeting the requirements of section EX 59(1),”.
- (2) **Subsection (1)** applies for income years starting on or after 1 April 2023. 5
- 53 Section EX 38 amended (Exemptions for employee share schemes)**
- In section EX 38(1)(f), replace “a employee share scheme” with “an employee share scheme”.
- 54 Section EX 46 amended (Limits on choice of calculation methods)**
- In section EX 46(10),— 10
- (a) replace paragraph (c)(ii) with:
- (ii) are denominated in New Zealand dollars or are assets having a value in New Zealand dollars that is governed by 1 or more related financial arrangements that remove 80% to 125% of foreign currency risk for the assets and are entered with the sole purpose and net effect of offsetting exposure to foreign currency exchange rate movement in the value of the assets: 15
- (b) replace paragraph (cb)(iii) with:
- (iii) the interest has a value in New Zealand dollars that is governed by 1 or more related financial arrangements that remove 80% to 125% of foreign currency risk for the interest and are entered with the sole purpose and net effect of offsetting exposure to foreign currency exchange rate movement in the value of the interest: 20
- 55 Section EX 52 amended (Fair dividend rate annual method)**
- (1) Replace section EX 52(5), other than the heading, with: 25
- (5) **Opening value** is the total of the market values of the FDR interests held by the person at the start of the income year that are not, at the start of the income year, included in a direct income interest of 10% or more in a FIF that, at the start of the income year,—
- (a) meets the requirements of section EX 35(b)(i) to (iii); and 30
- (b) does not have its liability for income tax reduced by an exemption, allowance, or relief referred to in section EX 35(c)(i) or (ii); and
- (c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.
- (2) **Subsection (1)** applies for income years starting on or after 1 July 2014. 35
- 56 Section EX 53 amended (Fair dividend rate periodic method)**
- (1) Replace section EX 53(5), other than the heading, with:

- (5) **Opening value** is the total of the market values of the FDR interests held by the person at the start of the unit valuation period that are not, at the start of the unit valuation period, included in a direct income interest of 10% or more in a FIF that, at the start of the income year,—
- (a) meets the requirements of section EX 35(b)(i) to (iii); and 5
 - (b) does not have its liability for income tax reduced by an exemption, allowance, or relief referred to in section EX 35(c)(i) or (ii); and
 - (c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.
- (2) **Subsection (1)** applies for income years starting on or after 1 July 2014. 10
- 57 Section EX 59 amended (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method)**
- (1) In section EX 59(1B)(b), replace “(ii).” with “(ii); and”.
- (2) After section EX 59(1B)(b), insert:
- (c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company. 15
- (3) **Subsections (1) and (2)** apply for income years starting on or after 1 July 2014.
- 58 Section EY 24 amended (Outstanding claims reserving amount: non-participation policies not annuities)** 20
- (1) In section EY 24(2)(a)(i), before “the amount”, insert “if subparagraphs (ii), (iii), and (iv) do not apply,”.
- (2) In section EY 24(2)(a)(ii), replace “IBNR liability” with “liability for claims incurred but not reported” in each place.
- (3) After section EY 24(2)(a)(ii), insert: 25
- (iii) if the current year is the first year in which the insurer adopts IFRS 17 for accounting, the amount of the insurer’s reserve for outstanding claims liability for the class of policies, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year; or 30
 - (iv) if the insurer does not adopt IFRS 17 in the current year and the current year is the first year in which the insurer applies the definition of **present value (gross)** inserted by **section 98** of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022**, the amount of the insurer’s reserve for outstanding claims liability for the class of policies, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year: 35
- (4) In section EY 24(3), formula,—

- (a) replace “life risk claims incurred” with “life risk claims incurred but not reported”;
- (b) replace “risk margin” with “risk adjustment”.
- (5) In section EY 24(4)(a), replace “**life risk claims incurred**” with “**life risk claims incurred but not reported**”. 5
- (6) In section EY 24(4)(c),—
- (a) replace “**risk margin**” with “**risk adjustment**”;
- (b) replace “margin” with “adjustment” in each place.
- (7) **Subsections (1), (2), (3), (4), (5), and (6)** apply for income years starting on or after 1 January 2023. 10
- 59 Section FC 9 amended (Residential land transferred to executor, administrator, or beneficiary on death of person)**
- In section FC 9(2), replace “administrator.” with “administrator (*see also*: sections CB 6A(2B) and CZ 39(7)).”
- 60 Section FL 1 amended (What this subpart does)** 15
- (1) Replace section FL 1(1), other than the heading, with:
- (1) This subpart applies when a company that is a New Zealand resident (the **emigrating company**)—
- (a) stops being a New Zealand resident; or
- (b) starts being treated under a double tax agreement as not being a New Zealand resident. 20
- (2) In section FL 1(2), words before the paragraphs, after “non-resident”, insert “, or if a specified event occurs after an emigrating company starts being treated under a double tax agreement as not being a New Zealand resident,”.
- (3) In section FL 1, list of defined terms, insert “double tax agreement”. 25
- 61 Section FL 2 replaced (Treatment of emigrating companies and their shareholders)**
- Replace section FL 2 with:
- FL 2 Treatment of companies that become non-resident and their shareholders**
- When this section applies* 30
- (1) This section applies in relation to a New Zealand resident company that stops being a New Zealand resident.
- Treatment of company*
- (2) Immediately before the company stops being a New Zealand resident, the company is treated as— 35

<p>(a) disposing of its property to a person, and reacquiring the property from the person, for consideration equal to the market value of the property at the time; and</p> <p>(b) making a distribution in money as a dividend to its shareholders of an amount that would be available for distribution at the time if the company were treated as going into liquidation.</p> <p><i>Treatment of shareholders</i></p> <p>(3) Immediately before the company stops being a New Zealand resident, each shareholder of the company is treated as being paid a distribution in money as a dividend of the amount the shareholder would be entitled to at the time if the company were treated as going into liquidation.</p> <p>Defined in this Act: amount, company, dividend, liquidation, market value, New Zealand resident, pay, shareholder</p>	<p>5</p> <p>10</p>
<p>62 New section FL 3 inserted (Treatment of companies that start being treated as non-resident and their shareholders)</p> <p>After section FL 2, insert:</p> <p>FL 3 Treatment of companies that start being treated as non-resident and their shareholders</p> <p><i>When this section applies</i></p> <p>(1) This section applies in relation to a New Zealand resident company that, on or after 30 August 2022, starts being treated under a double tax agreement (the DTA) as not being a New Zealand resident if, after the company starts being treated under the DTA as not being a New Zealand resident, 1 or more of the following events occur:</p> <p>(a) the company, while being treated under the DTA as not being a New Zealand resident, derives an amount of income for which relief from New Zealand tax is available under the DTA:</p> <p>(b) the company, while being treated under the DTA as not being a New Zealand resident, pays a dividend, other than a dividend that has an imputation ratio equal to the maximum permitted ratio calculated under section OA 18 (Calculation of maximum permitted ratios), to—</p> <p style="padding-left: 20px;">(i) a non-resident; or</p> <p style="padding-left: 20px;">(ii) a New Zealand resident that is treated under a double tax agreement as not being a New Zealand resident:</p> <p>(c) the company becomes a non-resident:</p> <p>(d) the company has, for a continuous period of 2 years, been treated under the DTA as not being a New Zealand resident.</p>	<p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>

<i>Treatment of company</i>		
(2)	Immediately before the company starts being treated under the DTA as not being a New Zealand resident, the company is treated as—	
	(a) disposing of its property to a person, and reacquiring the property from the person, for consideration equal to the market value of the property at the time; and	5
	(b) making a distribution in money as a dividend to its shareholders of an amount that would be available for distribution at the time if the company were treated as going into liquidation.	
<i>Treatment of shareholders</i>		10
(3)	Immediately before the company starts being treated under the DTA as not being a New Zealand resident, each shareholder of the company is treated as being paid a distribution in money as a dividend of the amount the shareholder would be entitled to at the time if the company were treated as going into liquidation.	15
<i>Timing of income: company</i>		
(4)	An amount of income derived by the company from a deemed disposal under subsection (2) is allocated to the income year of the company in which the earliest of the events described in subsection (1)(a) to (d) occurs.	
<i>Timing of income: shareholders</i>		20
(5)	A dividend that a shareholder of the company is treated as being paid under subsection (3) is allocated to the income year of the shareholder in which the earliest of the events described in subsection (1)(a) to (d) occurs.	
<i>Relationship with section CD 1</i>		
(6)	This section overrides section CD 1(2) (Dividend).	25
Defined in this Act: amount, company, dividend, double tax agreement, imputation ratio, income, income year, liquidation, market value, maximum permitted ratio, New Zealand resident, New Zealand tax, non-resident, pay, shareholder		
63	Section FM 31 amended (Eligibility rules)	
(1)	Repeal section FM 31(1)(b) and (e).	30
(2)	In section FM 31, list of defined terms, delete “foreign company” and “income tax”.	
64	Section FN 4 amended (Eligibility rules)	
Replace section FN 4(1)(d) with:		
(d)	it is required to maintain an imputation credit account (<i>see</i> sections OB 1 and OB 2); and	35
65	Section GB 28 amended (Interpretation of terms used in section GB 27)	
In section GB 28(6)(a)(ii), delete “or more”.		

- 66 Section GC 13 amended (Calculation of arm’s length amounts)**
In section GC 13(1C), words before the paragraphs, replace “1.122” with “1.142”.
- 67 Section HA 7 amended (Shareholding requirements)**
In section HA 7(3)(a), delete “or adoption,”. 5
- 68 Section HB 13 amended (LTC elections)**
In section HB 13(6), replace “values” with “timings and values”.
- 69 Section HC 8 amended (Amounts received after person’s death)**
- (1) After section HC 8(1), insert:
Reportable income received within 28 days after person’s death 10
- (1B) An amount of reportable income received by the trustee within the period of 28 days starting with the date of the person’s death is treated as if it were income that was derived by the person before being received by the trustee.
- (2) In section HC 8(2), replace “The amount” with “An amount not referred to in **subsection (1B)**”. 15
- (3) In section HC 8, list of defined terms, insert “reportable income”.
- (4) **Subsections (1) and (2)** apply for the 2022–23 and later income years.
- 70 Section HC 26 amended (Foreign-sourced amounts: resident trustees)**
- (1) In section HC 26(1)(c), words before subparagraph (i), replace “foreign trust” with “trust”. 20
- (2) In section HC 26(1)(c)(i), after “trust deed”, insert “or is created by a will”.
- (3) In section HC 26(1)(d), words before subparagraph (i), replace “foreign trust” with “trust”.
- (4) In section HC 26(1)(d)(i), after “trust deed”, insert “or is created by a will”.
- (5) In section HC 26(1B), words before paragraph (a), replace “subsection (1)(c)(v) or (d)(iv)” with “subsection (1)(c)(iii), (iv), or (v) or (d)(ii), (iii), or (iv)”. 25
- (6) Replace section HC 26(1B)(b) with:
(b) satisfy the Commissioner that the trustee made reasonable efforts in the income year to comply with the requirements referred to in the subparagraph and to remedy the non-compliance. 30
- 71 Section HC 36 amended (Trusts and minor beneficiary rule)**
In section HC 36(5), definition of **relative**, delete “adoption, as described in paragraph (a)(iv), or”.

- 72 Section HM 35 amended (Determining net amounts and taxable amounts)**
- (1) In section HM 35(8)(a), replace “these valuations” with “these valuations and **paragraph (c)** does not apply to the income and deductions”.
- (2) In section HM 35(8)(b), replace “paragraph (a).”, with “paragraph (a) and **paragraph (c)** does not apply to the income and deductions:”. 5
- (3) After section HM 35(8)(b), insert:
- (c) given by *Determination G27: Swaps, Method C*, if the income and deductions arise from a financial arrangement that meets the requirements for the method and the multi-rate PIE chooses to use the method for the income and deductions. 10
- (4) **Subsections (1), (2), and (3)** apply for the 2023–24 and later income years.
- 73 Section HM 40 replaced (Deductions for attributed PIE losses for zero-rated and exiting investors)**
- Replace section HM 40 with:
- HM 40 Deductions for attributed PIE losses for zero-rated and exiting investors equal to amount attributed** 15
- The deduction an investor referred to in section DB 53(1) is allowed is equal to the amount attributed for the income year or exit period.
- Defined in this Act: amount, exit period, income year
- 74 Section HR 12 amended (Non-exempt charities: treatment of tax-exempt accumulations)** 20
- In section HR 12(3)(d), replace “the Te” with “Te”.
- 75 New section IB 2B inserted (When subsequent ownership continuity breach regarded as occurring)**
- (1) After section IB 2, insert: 25
- IB 2B When subsequent ownership continuity breach regarded as occurring**
- For the purposes of this subpart, once an ownership continuity breach has occurred for a company that, in the absence of section IB 3, prevents a tax loss component of the company from being carried forward to a tax year in a loss balance, a subsequent change in the holders of voting interests or market value interests in the company is not regarded as resulting in a subsequent ownership continuity breach unless the company would not meet the minimum continuity requirements of section IA 5(2) and (3) for the carrying forward of the tax loss component to the tax year in a loss balance if the meaning of **continuity period** in that section is modified by replacing the words “the start of the income year that corresponds to the tax year in which a tax loss component is included in the tax loss” with the words “immediately after the company’s last ownership continuity breach occurred that, in the absence of section IB 3, pre- 30 35

	vents the tax loss component from being carried forward to the tax year in a loss balance”.	
	Defined in this Act: company, continuity period, income year, loss balance, market value interest, ownership continuity breach, tax loss, tax loss component, tax year, voting interest	
(2)	Subsection (1) applies in relation to a breach of the requirements for continuity of ownership of section IA 5 if the breach occurs during the 2020–21 income year or a later income year.	5
76	Section IC 4 amended (Common ownership: wholly-owned groups of companies)	
(1)	Replace the heading to section IC 4(2) with “ <i>Exempt employee share schemes</i> ”.	10
(2)	In section IC 4(2), replace “a share purchase scheme” with “an exempt ESS”.	
(3)	In section IC 4, list of defined terms,—	
	(a) insert “exempt ESS”:	
	(b) delete “share purchase scheme”.	
77	Section IC 5 amended (Company B using company A’s tax loss)	15
(1)	In section IC 5(1)(b), delete “residence”.	
(2)	After section IC 5(7), insert:	
	<i>Commonality periods starting before 15 March 2017 for tax years after 1990–91</i>	
(8)	Section IZ 7B (Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91) modifies the requirements of subsection (1)(b) for a commonality period starting before 15 March 2017 for a tax loss component that arises after the 1990–91 tax year.	20
(3)	In section IC 5, list of defined terms, insert “commonality period”.	
78	Section IC 7 amended (Residence of company A)	25
(1)	Replace the heading to section IC 7 with “ Place of incorporation or carrying on business ”.	
(2)	Repeal section IC 7(2).	
(3)	In section IC 7, list of defined terms, delete “double tax agreement”, “income tax”, and “resident in New Zealand”.	30
79	New section IZ 7B inserted (Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91)	
	After section IZ 7, insert:	

IZ 7B Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91

For the purposes of section IC 5(1)(b) (Company B using company A’s tax loss), if the commonality period started before 15 March 2017 and company A’s tax loss component arose in a tax year after the 1990–91 tax year, in addition to meeting the requirements of section IC 7(1) (Place of incorporation or carrying on business), company A, for the part of the commonality period that precedes 15 March 2017, must not be a company resident in New Zealand that is—

- (a) treated under a double tax agreement, and for the purposes of the agreement, as not resident in New Zealand; or
- (b) liable by the law of another country or territory to income tax in that country or territory through domicile, residence, or place of incorporation.

Defined in this Act: commonality period, company, double tax agreement, income tax, resident in New Zealand, tax loss component, tax year

80 Section LE 5 amended (Beneficiaries of trusts)

- (1) In section LE 5(2), after “credit”, insert “and imputation credit”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

81 Section LK 1 amended (Tax credits relating to attributed CFC income)

Replace section LK 1(1C) with:

Place of incorporation or carrying on business

- (1C) For the purposes of subsection (1B), the requirements set out in section IC 7 (Place of incorporation or carrying on business) do not apply to disallow the use of the tax credit by group companies under section LK 6.

82 Section LT 1 amended (Tax credits for petroleum miners)

In section LT 1(4D)(a), after “if”, insert “the amount described in subsection (1)(a)(iii) is zero or”.

83 Section OB 2 amended (Australian companies choosing to have imputation credit accounts)

- (1) Replace the heading to section OB 2 with “**Australian companies with imputation credit accounts**”.
- (2) After section OB 2(2)(a)(i), insert:
 - (ib) is treated as not being resident in Australia under a double tax agreement between New Zealand and Australia; or
- (3) After section OB 2(3), insert:

- When New Zealand resident company becomes Australian ICA company*
- (3B) If a company that is resident in New Zealand stops being a company that is required by section OB 1 to maintain an imputation credit account because, under a double tax agreement between New Zealand and Australia, the company is treated as not being resident in New Zealand, the company continues to be required to maintain an imputation credit account. 5
- (4) Replace section OB 2(7)(b) and (c) with:
- (b) for a company that has made an election under subsection (1),—
- (i) the company revokes the election by notifying the Commissioner; or
- (ii) the Commissioner gives the company notice revoking the election. 10
- (5) In section OB 2(8)(b), replace “unless paragraph (c) applies” with “for a company that has made an election under subsection (1), unless paragraph (a) or (c) applies”. 15
- (6) In section OB 2, list of defined terms, insert “resident in New Zealand”.
- 84 Section OB 62 amended (Retrospective attachment of imputation credits)**
- In section OB 62(1)(b), replace “(Treatment of emigrating companies and their shareholders)” with “or **FL 3** (which relate to the treatment of emigrating companies and their shareholders)”. 20
- 85 Section RA 6 amended (Withholding and payment obligations for passive income)**
- (1) After section RA 6(4), insert:
- Certain dividends paid to dual residents*
- (5) For the purposes of subsections (2) and (4) and section RF 3 (Obligation to withhold amounts of tax for non-resident passive income), a person who makes a payment of a dividend described in **section CD 1(3)** (Dividend) is treated as making the payment on the DRCD deferral date.
- Meaning of DRCD deferral date*
- (6) For the purposes of this section and sections CD 1 and RF 3, the **DRCD deferral date** is the day that is the second anniversary of the date on which the dividend was actually paid. 30
- (2) In section RA 6, list of defined terms, insert “dividend” and “DRCD deferral date”.
- 86 Section RA 15 amended (Payment dates for interim and other tax payments)** 35
- (1) After section RA 15(4), insert:

Treatment of certain cross-border employees

(4B) Despite subsections (2)(a) and (b) and (3)(a) and (b), and on application by an employer, the Commissioner may, in special circumstances, agree with the employer that the payment of amounts of tax for PAYE income payments made to a class of cross-border employees for a tax year is due by 31 May after the end of the tax year. 5

(2) In section RA 15, list of defined terms, insert “cross-border employees” and “PAYE income payment”.

87 Section RA 18 amended (Payment date for emigrating companies)

In section RA 18(1), replace “(Treatment of emigrating companies and their shareholders)” with “or **FL 3** (which relate to the treatment of emigrating companies and their shareholders)”. 10

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

(1) Replace section RC 5(2), other than the heading, with:

(2) Under the standard method, the amount of provisional tax payable for the tax year is, for the purpose of determining the amount of any particular instalment of provisional tax payable under section RC 9, 105% of the person’s residual income tax for the preceding tax year, determined under section RC 6. Subsection (3) overrides this subsection. 15

(2) In section RC 5(3), words before the paragraphs, after “is”, insert “, for the purpose of determining the amount of any particular instalment of provisional tax payable under section RC 9,”. 20

(3) In section RC 5(3)(b), replace “date on which the first payment of provisional tax for the tax year is required” with “relevant instalment date”.

(4) In section RC 5(3)(c), replace “that date” with “the relevant instalment date”. 25

(5) In section RC 5(d), replace “the date is not” with “the relevant instalment date is not”.

(6) After section RC 5(3), insert:

Non-working days

(3B) For the purposes of subsection (3)(c), if the relevant instalment date falls on a day that is not a working day, a return for the preceding tax year provided on the first working day after that instalment date is deemed to have been provided on the instalment date. 30

(7) **Subsections (1) and (2)** apply for provisional tax payments for the income years corresponding to the 2008–09 and subsequent tax years. 35

(8) **Subsections (3), (4), (5), and (6)** apply for the 2017–18 and later income years.

89 Section RD 5 amended (Salary or wages)

- (1) After section RD 5(9), insert:

Contributions to foreign superannuation schemes

- (9B) A payment that an employer makes as a contribution to a foreign superannuation scheme for the benefit of an employee, including a contribution to a death, sickness, accident, or similar benefit fund that is part of the scheme, is included in salary or wages. 5

- (2) In section RD 5, list of defined terms, insert “foreign superannuation scheme”.

90 Section RD 8 amended (Schedular payments)

After section RD 8(3), insert: 10

Payments to non-resident contractors

- (4) For the purposes of this section, in relation to a schedular payment made to a non-resident contractor, the payment may include—
-
- (a) a payment made by an associated person; or
-
- (b) for a consolidated group of companies, a payment made a member of the group of companies. 15

92-day threshold

- (5) For the purposes of subsection (1)(b)(v), the 92-day threshold includes only the number of days on which the contractor is present in New Zealand to perform the duties under the contract, from their arrival in New Zealand to their departure after the completion of the contract, including weekends and holidays and excluding days on which the contractor is present in New Zealand for purposes not related to the contract. 20

Monetary threshold

- (6) For the purposes of subsection (1)(b)(vi), the \$15,000 threshold includes only the payments made to the contractor or another person on their behalf that are related to the contract with the person paying the schedular payment. 25

91 Section RD 23 repealed (Bonds given by employers of certain non-resident employees)

Repeal section RD 23. 30

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

Repeal section RD 24(1)(b).

93 New section RD 62B inserted (Obligations of cross-border employees when FBT liability not paid)

After section RD 62, insert: 35

RD 62B Obligations of cross-border employees when FBT liability not paid

When this section applies

- (1) This section applies when a cross-border employee receives a fringe benefit in relation to a period when they are providing employment services in New Zealand. 5

Employees' obligations

- (2) If, for any reason, some or all of the amount of FBT liability is not paid to the Commissioner, the employee must—
- (a) provide the relevant information required under **section 231** of the Tax Administration Act 1994; and 10
- (b) pay the amount of the deficiency.

When person exempt

- (3) **Subsection (2)(b)** does not apply if the employee is exempt from paying the amount of the liability. 15

Defined in this Act: amount, Commissioner, cross-border employee, fringe benefit, New Zealand, pay

94 New section RD 71B inserted (Obligations of cross-border employees when amounts of tax not paid)

After section RD 71, insert:

RD 71B Obligations of cross-border employees when amounts of tax not paid 20

When this section applies

- (1) This section applies when an employer or person makes an employer's superannuation cash contribution or an employer's contribution to a foreign superannuation scheme for a cross-border employee that relates to a period during which the employee is providing employment services in New Zealand. 25

Employees' obligations

- (2) If, for any reason, some or all of the amount of tax for the contribution is not paid to the Commissioner, the employee must—
- (a) provide the relevant information required under **section 231** of the Tax Administration Act 1994; and 30
- (b) pay the amount of the deficiency.

When person exempt

- (3) **Subsection (2)(b)** does not apply if the employee is exempt from paying the amount of tax. 35

Defined in this Act: amount of tax, Commissioner, cross-border employee, employer's superannuation cash contribution, foreign superannuation scheme, New Zealand, pay

95 Section RF 2 amended (Non-resident passive income)

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

(1) **Non-resident passive income** means income having a source in New Zealand that—

- (a) a non-resident derives and that consists of—
 - (i) a dividend other than an investment society dividend: 5
 - (ii) a royalty:
 - (iii) an investment society dividend when the non-resident is not engaged in business in New Zealand through a fixed establishment in New Zealand: 10
 - (iv) interest, other than interest derived in the circumstances set out in subsection (2B):
 - (v) non-resident financial arrangement income; or
- (b) a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand derives and that is a dividend other than an investment society dividend. 15

(2) Replace the heading to section RF 2(2) with “*Exclusions: non-residents*”.

(3) After section RF 2(2), insert:

Exclusions: dual resident companies

(2BA) The following amounts derived by a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand are excluded from non-resident passive income: 20

- (a) an amount of exempt income:
- (b) an amount of excluded income under sections CX 56B and CX 56C, as applicable: 25
- (c) an amount derived by a trustee of a trust after the effective date of an election under section HC 33(1) for the trust.

(4) In section RF 2(2B), words before the paragraphs, replace “Subsection (1)(d)” with “**Subsection (1)(a)(iv)**”.

(5) In section RF 2, list of defined terms, insert “double tax agreement” and “New Zealand resident”. 30

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

In section RF 2C(1)(c)(i), replace “section RF 2(1)(d)” with “**section RF 2(1)(a)(iv)**”. 35

- 97 Section RF 12G amended (Choosing to treat income as non-resident financial arrangement income)**
- In section RF 12G(4)(a), replace “section RF 2(1)(d)” with “**section RF 2(1)(a)(iv)**”.
- 98 Section YA 1 amended (Definitions)** 5
- (1) This section amends section YA 1.
- (2) Replace the definition of **Australian ICA company** with:
- Australian ICA company** means a company that—
- (a) is required to establish and maintain an imputation credit account because of an election under section OB 2(1) (Australian companies with imputation credit accounts); or 10
- (b) is required by **section OB 2(3B)** to maintain an imputation credit account
- (3) Insert, in appropriate alphabetical order:
- build-to-rent land**— 15
- (a) means land to the extent to which, together with any other contiguous land owned by the same person, has 20 or more dwellings used, available for use, or being prepared or restored for use, as dwellings occupied under a residential tenancy to which the Residential Tenancies Act 1986 applies or would apply, if— 20
- (i) in the case of a dwelling completely built before 1 July 2023,—
- (A) the landlord or manager for the dwelling has offered any current tenants before 1 July 2023 a fixed term tenancy of no less than 10 years, and always offers prospective tenants such a tenancy; and 25
- (B) the tenancy allows, without penalty, tenant personalisations for the dwelling; and
- (C) the tenancy provides that a tenant may cancel the tenancy with 56 days notice, without penalty:
- (ii) in the case of a dwelling completely built on or after 1 July 2023,— 30
- (A) the landlord or manager for the dwelling always offers prospective tenants a fixed term tenancy of no less than 10 years; and
- (B) the tenancy allows, without penalty, tenant personalisations for the dwelling; and 35
- (C) the tenancy provides that a tenant may cancel the tenancy with 56 days notice, without penalty:

- (b) does not include land that at any time after it first meets the requirements of **paragraph (a)** fails to meet those requirements
- (4) Replace the definition of **business premises** with:
business premises, for subparts DD and DH and sections CB 6A to CB 15 and CZ 39,— 5
- (a) means the normal business premises or a temporary workplace of the person (or an associate):
- (b) does not include premises or a workplace established mainly for the purpose of enjoying entertainment
- (5) Insert, in appropriate alphabetical order: 10
cross-border employee is defined in **section CE 1F(4)** (Treatment of amounts derived by cross-border employees for the purposes of that section and **sections CE 1(3B), RA 15(4B), RD 62B, and RD 71B** (which relate to amounts derived by employees)
- (6) In the definition of **dispose**, after paragraph (a), insert: 15
(ab) in sections CB 6A to CB 16, CB 18, CB 19, CB 21, CB 22, CZ 39, and subpart EL (which relate to the disposal of land), for land, does not include a transfer or other change of ownership between co-owners as part of an arrangement for land, to the extent to which it results in the same proportionate economic ownership as before the transfer or other change of ownership (for example: A owns 40% of some land, and B owns 60%. They subdivide the land so that A owns a piece proportionate to 40% and B owns a piece proportionate to 60%): 20
- (7) Insert, in appropriate alphabetical order: 25
DRCD deferral date is defined in **section RA 6(6)** (Withholding and payment obligations for passive income) for the purposes of that section and sections CD 1 (Dividend) and RF 3 (Obligation to withhold amounts of tax for non-resident passive income)
- (8) In the definition of **fully imputed**, paragraph (a), after “CD 39,”, insert “CW 10,”. 30
- (9) Replace the definition of **ICA company** with:
ICA company means a company that— 35
- (a) is required by section OB 1 (General rules for companies with imputation credit accounts) to establish and maintain an imputation credit account; or
- (b) is an Australian ICA company
- (10) Insert, in appropriate alphabetical order:
IFRS 17 means the IFRS, numbered NZ IFRS 17, that relates to insurance contracts

- (11) In the definition of **non-resident contractor**,—
- (a) replace “services of another person” with “services of another person; and”;
 - (b) insert after paragraph (b)(ii):
 - (c) is not a non-resident entertainer 5
- (12) In the definition of **OECD transfer pricing guidelines**, replace “*OECD 2017, OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*” with “*OECD (2022), OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022*”.
- (13) In the definition of **outstanding claims reserve**,— 10
- (a) after paragraph (a), insert:
 - (ab) for a general insurer who uses IFRS 17, the amount of the insurer’s liability for incurred claims for general insurance contracts, excluding contracts having premiums to which section CR 3 applies, as that liability is measured for the insurer’s financial statements, reduced by the amount, measured for the insurer’s financial statements, of reinsurance recoveries and non-reinsurance recoveries receivable in relation to the incurred claims: 15
 - (b) after paragraph (b), insert:
 - (c) for a life insurer and life insurance contracts, the amount calculated under section EY 24(3) and (4) for the outstanding claims reserve and for part-year transfers of life insurance contracts under section EY 5 (Part-year tax calculations): 20
 - (d) for transfers of general insurance contracts to an insurer, the amount calculated under section DW 4(4B) and (4C) (Deduction for general insurance outstanding claims reserve) to which section ED 3(1B) (Part-year calculations for transfers: general insurance OCR) applies 25
- (14) Replace the definition of **present value (gross)** with:
present value (gross), for a claim under a life insurance contract, means the present value of the claim for the purposes of the outstanding claims reserve of the life insurer, calculated using relevant discount rates and gross of tax 30
- (15) In the definition of **profit distribution plan**, paragraph (b), replace “a share purchase scheme” with “an exempt ESS”.
- (16) In the definition of **profit distribution plan**, paragraph (b), replace “a employee share scheme” with “an employee share scheme”. 35
- (17) In the definition of **relative**, repeal paragraph (a)(iv).
- (18) In the definition of **settlement**, paragraph (c), delete “in section CB 16A(7) (Main home exclusion for disposal within 10 years)”.
- (19) Replace the definition of **time of emigration** with:

- time of emigration**, for an emigrating company, means—
- (a) the time at which the emigrating company starts being treated under a double tax agreement as not being resident in New Zealand, if **section FL 3** (Treatment of companies that start being treated as non-resident and their shareholders) applies in relation to the emigrating company; or 5
 - (b) otherwise, the time at which the emigrating company becomes a non-resident
- (20) In the definition of **trust rules**, paragraph (h), replace “and 93B,” with “59B, 59C, 59D, **59DB**, 93B, and **139AC**”. 10
- (21) In the definition of **unit trust**, paragraph (b)(viii), replace “employee share purchase scheme” with “exempt ESS”.
- (22) Insert, in appropriate alphabetical order:
- utilities distribution assets**—
- (a) means the property (for example: power poles) used or available to use to distribute, as applicable, goods and services, by a utilities distribution network operator: 15
 - (b) does not include property that is a utilities distribution network treated as an item of property separate from the relevant property described in **paragraph (a)** 20
- (23) Insert, in appropriate alphabetical order:
- utilities distribution network** means a network made up of utilities distribution assets
- (24) Insert, in appropriate alphabetical order:
- utilities distribution network operator** means a person to the extent to which they are, or are associated with: 25
- (a) an electricity distributor under the Electricity Act 1992:
 - (b) a gas distributor under the Gas Act 1992:
 - (c) a network operator under the Telecommunications Act 2001:
 - (d) an operator under the Water Services Act 2021 30
- (25) **Subsections (10), (13), and (14)** apply for income years starting on or after 1 January 2023.
- (26) A person may choose that **subsection (12)** does not apply to them for the 2022–23 or earlier income years if they have an existing binding ruling, for the period of the ruling, if the ruling rules on the application of the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*. 35

99 Section YB 4 amended (Two relatives)

Repeal section YB 4(3).

100 Schedule 15 amended (Excepted residential land)

In schedule 15, after item 10, insert:

11. Land to the extent to which the Commissioner has received a valid notice from the Chief Executive of Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development that the land meets the definition of **build-to-rent land**, and that notice has not been revoked by the Chief Executive.

101 Schedule 32 amended (Recipients of charitable or other public benefit gifts) 5

- (1) In schedule 32, insert, in appropriate alphabetical order, “Cotton On Foundation Limited”, “Engineers Without Borders New Zealand Incorporated”, “Family for Every Child New Zealand Trust”, “Forest for People Limited”, “Joyya Trust”, and “Solomon Island Medical Mission Charitable Trust”. 10
- (2) In schedule 32, insert, in appropriate alphabetical order, “Heilala Vanilla Foundation”.
- (3) In schedule 32, delete “Heilala Vanilla Foundation”.
- (4) In schedule 32, insert, in appropriate alphabetical order, “New Zealand for UNHCR (United Nations High Commissioner for Refugees)”. 15
- (5) In schedule 32, delete “UNHCR (United Nations High Commissioner for Refugees)”.
- (6) In schedule 32, insert, in appropriate alphabetical order, “Pacific Island Food Revolution Limited”.
- (7) In schedule 32, delete “Pacific Island Food Revolution Limited”. 20
- (8) In schedule 32, insert, in appropriate alphabetical order, “Anglican World Aid (Aotearoa) Limited”.

Part 3

Amendments to Goods and Services Tax Act 1985

102 Amendments to Goods and Services Tax Act 1985 25

This Part amends the Goods and Services Tax Act 1985.

103 Section 2 amended (Interpretation)

- (1) This section amends section 2(1).
- (2) In the definition of **electronic marketplace**, replace paragraph (a) with:
(a) means a marketplace that is operated by electronic means by which a person (the underlying supplier) makes 1 or more of the following sup- 30

- plies by electronic means through another person (the operator of the marketplace) to a third person (the recipient):
- (i) a supply of goods:
 - (ii) a supply of remote services:
 - (iii) a supply of listed services; and
- (3) Insert, in appropriate alphabetical order:
- flat-rate credit** means an amount equal to the amount of input tax that an operator of an electronic marketplace passes on to an underlying supplier for a supply of listed services made through the electronic marketplace as a credit that is intended for an underlying supplier who is not a registered person
- (4) Insert, in appropriate alphabetical order:
- listed services** means a service described in **section 8C(2)**
- (5) In the definition of **percentage actual use**, delete “20G,”.
- (6) In the definition of **percentage difference**, delete “20G and”.
- (7) In the definition of **percentage intended use**, delete “20G,”.
- (8) **Subsections (2), (3), and (4)** apply for taxable periods starting on or after 1 April 2024.
- 104 Section 2A amended (Meaning of associated persons)**
- (1) After section 2A(1)(d), insert:
- (db) a joint venture and a member of the joint venture:
- (2) **Subsection (1)** applies to a tax position taken by a person on or after 30 August 2022.
- 105 Section 5 amended (Meaning of term supply)**
- (1) Repeal section 5(6AA), (6AAB), (6A), (6AB), (6AC), (6B), (6BB), and (7F).
- (2) In section 5(6D)(a), delete “(not being a public authority)”.
- (3) After section 5(6EB), insert:
- (6EC) A charge, including a fee or a levy, payable under legislation is deemed to be consideration for a supply of goods and services.
- (6ED) **Subsection (6EC)** does not apply to a charge—
- (a) listed in the **schedule**:
 - (b) that is, or is in the nature of,—
 - (i) a fine:
 - (ii) a penalty:
 - (iii) interest:
 - (iv) a general tax.

(6EE) For the purposes of **subsection (6ED)**, a general tax means a charge in the nature of a tax imposed by a tax law where the revenue is not earmarked in legislation for a particular purpose or function.

Examples

For the purposes of **section 5(6ED) and (6EE)**, an example of a charge that is— 5

- a general tax is income tax:
- not a general tax is a levy used to fund the performance of regulatory functions.

(4) In section 5(11G), replace “remote services” with “remote service, listed services,”.

(5) After section 5(15)(b), insert: 10

(c) a supply that a person elects as exempt under section 14:

(6) After **section 5(15)(c)**, insert:

(d) the exempt supply described in section 91(4).

(7) Replace section 5(16) with:

(16) **Subsection (16C)** applies where a registered person— 15

(a) has either—

- (i) claimed a deduction under section 20(3) for goods or services; or
- (ii) acquired a supply that was zero-rated under section 11(1)(mb); or
- (iii) acquired a supply that was zero-rated under section 11(1)(m); and

(b) disposes or is treated as disposing of the goods or services; and 20

(c) is not using the goods or services in the course or furtherance of a taxable activity at the time the goods or services are disposed of; and

(d) has not previously returned output tax for the goods or services that is equal to or greater than—

- (i) the deduction under section 20(3), for supplies where a deduction was claimed; or 25
- (ii) the nominal GST component under section 20(3J), for supplies that were acquired as zero-rated supplies.

(16B) **Subsection (16C)** also applies where—

(a) the registered person has disposed or is treated as disposing of the goods or services ; and 30

(b) the Commissioner considered that the person, prior to disposal—

- (i) increased their non-taxable use of the goods or services; and
- (ii) applied section 21FB in contemplation of disposing of the goods or services, or ceasing their taxable activity. 35

- (16C) A disposal of the goods or services referred to in **subsection (16) or (16B)** by the person, including a deemed supply, is deemed to be made in the course or furtherance of a taxable activity carried on by the person.
- (8) Repeal section 5(19).
- (9) Replace section 5(23) with: 5
- (23) **Subsection (23B)** applies if—
- (a) section 11(1)(mb) is treated as applying to a taxable supply of goods in a return provided by the supplier; and
 - (b) after the date on which the relevant transaction is settled, it is found by the supplier of the goods or the Commissioner that section 11(1)(mb) does not apply; and 10
 - (c) the recipient of the goods did not provide the supplier with correct or sufficient information under section 78F to enable the supplier to determine whether the supply should be zero-rated.
- (23B) The recipient of the supply of the goods referred to in **subsection (23)** is treated as if they were a supplier making, on the date on which the error referred to in **subsection (23)(b)** is found, a taxable supply of the goods. 15
- (10) **Subsection (2)** applies for grants and subsidies paid on or after 1 April 2023.
- (11) **Subsection (3)** applies for a charge, including a fee or a levy, payable under legislation (a **legislative charge**) that comes into force on or after 1 July 2023, and to all other legislative charges from 1 July 2026. 20
- (12) **Subsection (4)** applies for taxable periods starting on or after 1 April 2024.
- (13) **Subsection (5)** applies to supplies made on or after 1 April 2011, but not to supplies for which an assessment has been made prior to 30 August 2022.
- (14) **Subsection (7)** applies to goods and services supplied on or after 1 April 2023. 25
- 106 Section 8 amended (Imposition of goods and services tax on supply)**
- (1) In section 8(3),—
- (a) in paragraph (b), replace “the services are physically performed” with “the services, other than listed services, are physically performed”: 30
 - (b) in paragraph (c), replace “performed.” with “performed; or”, and after paragraph (c), insert:
 - (d) the services are listed services referred to in **section 8C**.
- (2) In section 8(4), replace “unless the supplier and the recipient of the supply agree that this subsection will not apply to the supply” with “unless the supplier chooses to treat the supply as made in New Zealand”. 35
- (3) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024.

107 Section 8B amended (Remote services: determining residence of recipients)

(1) Replace section 8B(1) with:

(1) Subsection (2) applies to determine—

- (a) whether a supply is made in New Zealand under section 8(3)(c); or 5
- (b) for the purposes of sections 10(14B), 11A(1)(j), 60(1AB), 60C, and 60D, when remote services are supplied to a person resident in New Zealand; or
- (c) for the purposes of section 11A(1)(k) to (m), when remote services are supplied to a person who is outside New Zealand at the time the services are performed. 10

(2) In section 8B(5), replace “Section 8BB(1)” with “**Section 8BB(1B)**”.

108 Section 8BB amended (Certain supplies by non-residents: determining whether recipient is registered person)

Replace section 8BB(1) with: 15

(1) This section applies when a non-resident registered person (the **supplier**) makes a supply to a person (the **recipient**) of—

- (a) distantly taxable goods to which section 8(3)(ab) applies:
- (b) remote services to which section 8(3)(c) applies:
- (c) goods and services to which section 8(4) applies. 20

(1B) The supplier must not treat the supply as being made to a registered person for use in the course or furtherance of the registered person’s taxable activity if the recipient does not meet the requirements of this section.

109 New section 8C inserted (Supplies of listed services)

(1) After section 8BB, insert: 25

8C Supplies of listed services

(1) This section applies to determine the taxation of a supply of certain services (**listed services**) made through an electronic marketplace and performed, provided, or received in New Zealand.

(2) The listed services are— 30

- (a) a supply of accommodation services in New Zealand, other than an exempt supply under section 14(1)(c):
- (b) a supply of transport services in New Zealand in the form of—
 - (i) ride-sharing services:
 - (ii) beverage and food delivery services. 35

(3) A supply of listed services is treated as 2 separate supplies as described in section 60(1C) and for that purpose,—

- (a) when the underlying supplier is a registered person, the supply of the services to the electronic marketplace is zero-rated and—
- (i) no taxable supply information is required in relation to the supply; and
 - (ii) the operator of the electronic marketplace must account for tax on the supply that they are treated as making to the recipient; and 5
- (b) when the underlying supplier is not a registered person, the operator of the electronic marketplace must—
- (i) account for output tax on the supply that they are treated as making to the recipient; and 10
 - (ii) deduct an amount of input tax in relation to the supply under **section 20(3)(de)** and pass on to the underlying supplier an amount equal to the input tax as a flat-rate credit; and
- (c) when the underlying supplier is a registered person who has not notified the operator of the electronic marketplace their status as a registered person, and the operator has deducted an amount of input tax in relation to the supply under **section 20(3)(de)** for a taxable period, the underlying supplier— 15
- (i) is required to account for output tax under **section 20(3JD)** for the flat-rate credit received by them; and 20
 - (ii) has a tax shortfall equal to the amount of the flat-rate credit received by them.
- (4) For the amount of the input tax and the flat-rate credit, *see* **section 20(3)(de) and (3N)**.
- (5) If the Commissioner notifies the operator of the electronic marketplace as to the registration status of an underlying supplier to enable the correct tax treatment for both the operator and the underlying supplier, the operator must act on the notification as soon as practicable. 25
- (6) The operator must provide the underlying supplier with a statement showing the flat-rate credit passed on to the underlying supplier. The statement may be provided periodically in a way consistent with the operator’s usual reporting practices, but must be provided at least once a month. 30
- (7) The services listed in **subsection (2)** include other services that—
- (a) are closely-connected to the listed service supplied by the underlying supplier; and 35
 - (b) are advertised, listed, or otherwise made available through the electronic marketplace.
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024.

110	Section 9 amended (Time of supply)	
(1)	In section 9(9), replace “a supply of services” with “a supply of services including listed services”.	
(2)	Subsection (1) applies for taxable periods starting on or after 1 April 2024.	
111	Section 10 amended (Value of supply of goods and services)	5
(1)	After section 10(6), insert:	
(6B)	Subsection (6) does not apply to the extent to which the supply is a supply of listed services made through an electronic marketplace.	
(2)	In section 10(7D), replace “a supply of remote services or” with “a supply of remote services, or a supply of listed services, or a supply of”.	10
(3)	Subsections (1) and (2) apply for taxable periods starting on or after 1 April 2024.	
112	Section 11 amended (Zero-rating of goods)	
(1)	In section 11(8D)(a), after “assignment” insert “, grant,”.	
(2)	Replace section 11(8D)(b) with:	15
(b)	A supply that is wholly or partly of an interest in land that meets the requirements of subsection (1)(mb) that is made under a lease agreement of at least 1 year is only a supply under that subsection to the extent to which there is a lump sum payment, that is not a regular payment, of more than 25% of the total consideration specified under the agreement:	20
(3)	In section 11(9), insert in appropriate alphabetical order: lump sum payment includes irregular payments made before or after another irregular payment if the payments added together equal more than 25% of the total consideration specified under the lease agreement	
113	Section 14 amended (Exempt supplies)	25
(1)	After section 14(3), insert:	
(4)	A registered person may elect that a supply of goods is exempt from tax if—	
(a)	the person has not previously claimed a deduction under section 20(3) for the supply of goods; and	
(b)	the goods were not acquired for the principal purpose of making taxable supplies; and	30
(c)	the goods were not used for the principal purpose of making taxable supplies; and	
(d)	the goods were not acquired as zero-rated supplies under section 11(1)(m) or (mb).	35

- (2) In **section 14(4)(d)**, after “(mb)” insert “, unless the person has chosen to return the nominal GST component as output tax under **section 20(3J)(a)(iv)**”.
- (3) **Subsection (1)** applies to supplies made on or after 1 April 2011, but not to supplies for which an assessment has been made prior to 30 August 2022. 5
- (4) **Subsection (2)** applies to taxable periods starting on or after 1 April 2023.
- 114 Section 15 amended (Taxable periods)**
- (1) In section 15(6), replace “section 8(3)(c) applies” with “section 8(3)(c) applies, or listed services referred to in **section 8C**,”.
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024. 10
- 115 Section 19K amended (Taxable supply information: supplies by registered person)**
- (1) In section 19K(3), replace “request for the taxable supply information.” with “request for the taxable supply information. However, in relation to a supply of listed services, the taxable supply information must be provided to the recipient without the need for a request.” 15
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024.
- 116 Section 20 amended (Calculation of tax payable)**
- (1) Replace section 20(2) with:
- (2) A registered person, when including an amount for a supply of goods or services as a deduction in a calculation of an amount of tax payable by the registered person, must— 20
- (a) for a taxable supply, meet the requirements of **section 75**; and
- (b) for a supply, other than a taxable supply, of secondhand goods, meet the requirements of section 24(7); and 25
- (c) for a supply that the registered person treats as being within section 5B, have a record of the supply showing that—
- (i) the supply meets the requirements for treatment under section 5B as being made by the registered person; and
- (ii) the registered person accounts for the output tax charged for the supply; and 30
- (d) for a supply that the registered person treats as being made to the registered person as a nominated person under section 60B, have a record of the supply showing that—
- (i) the registered person is nominated to be the recipient of the supply by another person (the **nominator**) under a contract with the supplier to which the registered person is not a party; and 35

- (ii) the nominator and the registered person agree that the supply is to be treated as being made to the registered person and record the agreement; and
- (iii) the registered person pays to the supplier the full consideration for the supply. 5
- (2) In **section 20(2)**,—
- (a) in **paragraph (a)**, replace “section 75” with “section 19F”;
- (b) in **paragraph (b)**, replace “section 24(7)” with “section 19H”.
- (3) After section 20(3)(dd), insert:
- (de) for a supply of listed services referred to in **section 8C** when the underlying supplier has not notified the operator of the electronic marketplace that they are a registered person at the time of the supply, the amount of input tax that the operator of an electronic marketplace is required under **section 8C(3)(b)(ii)** to pass on to the underlying supplier as a flat-rate credit; and 10 15
- (4) Repeal section 20(3)(hb).
- (5) In **section 20(3C)**, words before paragraph (a), replace “(3D) or (3L)” with “(3D), (3L), or (3LB)”.
- (6) In **section 20(3C)**, words before paragraph (a), replace “(3D), (3L), or (3LB)” with “**(3CB), (3CC)**, (3D), (3L), or (3LB)”. 20
- (7) In section 20(3C)(a), replace “available for use in” with “intended to be used in”.
- (8) In section 20(3C)(b), replace “available for use in” with “intended to be used in”.
- (9) After section 20(3C), insert: 25
- (3CB) A registered person, other than a person who has agreed an apportionment method with the Commissioner under **section 20(3E), 20(3EB), 21(4), or 21(4B)**, who acquired goods and services for \$10,000, excluding GST, or less, may not deduct input tax for those goods and services unless **subsection (3CC)** applies. 30
- (3CC) A registered person referred to in **subsection (3CB)** may deduct input tax if they acquired the goods and services for the principal purpose of making taxable supplies.
- (3CD) A person to whom **subsection (3CC)** applies may not apportion input tax for an adjustment period, for the goods and services, between taxable and non-taxable use. 35
- (3CE) For the purposes of **subsection (3CC)** a registered person may not deduct input tax as defined in section 3A(1)(b) if—

- (a) for a registered person that is a resident, the goods or services are used for making taxable supplies that are the delivery, or arranging or making easier, the delivery of goods to a person in New Zealand; or
- (b) for a registered person that is a non-resident, the input tax is for imported goods of the type referred to in section 20(3LC). 5
- (3CF) For the purposes of **subsection (3CC)** all supplies made by a non-resident are treated as if they were made and received in New Zealand.
- (10) Replace section 20(3E) with:
- (3E) A registered person who principally makes supplies of financial services may choose to use a fair and reasonable method of apportionment, as agreed with the Commissioner, in relation to the supply for an apportionment on acquisition. For this purpose, the person may include a group of companies. 10
- (11) Replace section 20(3EB) with:
- (3EB) A registered person may choose to use, for apportioning input tax in relation to a supply of goods and services made to the registered person, a fair and reasonable method of apportionment that is agreed with the Commissioner by— 15
- (a) the registered person:
- (b) an industry association, if the method is intended by the Commissioner and the industry association to be available to a person such as the registered person. 20
- (12) Replace section 20(3J)(a)(iv) with:
- (iv) attribute as output tax to a taxable period under subsection (4)—
- (A) the amount determined under subparagraph (iii); or
- (B) the nominal GST component calculated by section 20(3J)(a)(i), if the person intends to apply section 14(4) on disposal of the goods; and 25
- (13) In section 20(3J)(b), replace “sections 20G and” with “section”.
- (14) Repeal section 20(3JB).
- (15) In section 20(3JC)(c), delete “20G and”. 30
- (16) After section 20(3JC), insert:
- (3JD) For a supply of listed services referred to in **section 8C**, if an underlying supplier of the listed services has received a flat-rate credit from the operator of the electronic marketplace through which the supply is made and was a registered person at the time of supply, the underlying supplier must account for output tax for the flat-rate credit under **subsection (4E)**. 35
- (17) In section 20(3L), replace “For the purposes of subsection (3)” with “For the purposes of subsection (3), and if **subsections (3CB) and (3CC)** do not apply”.

- (18) In section 20(3L), replace “or are available for use in” with “or intended to be used in”.
- (19) In section 20(3L), replace “uses the goods or services for, or has the goods and services available for use in, making taxable supplies, treating all supplies made by the person as if they were made and received in New Zealand.” with “goods or services are used for, or intends the goods or services for use in, making taxable supplies, treating all the supplies made by the person as if they are made and received in New Zealand”.
- (20) Replace section 20(3LB) with:
- (3LB) For the purposes of subsection (3), a registered person who is non-resident may deduct input tax as defined in section 3(1)(b) to the extent to which the goods or services are used for, or intended to be used in, making taxable supplies, treating all supplies made by the person as if they were made and received in New Zealand.
- (21) In **section 20(3LB)**, after “subsection (3),” insert “and if **subsections (3CB) and (3CC)** do not apply”.
- (22) After section 20(3M), insert:
- (3N) For the purposes of **subsection (3)(de)**, the amount of input tax to be deducted by the operator of the electronic marketplace corresponding to the flat-rate credit passed on under **section 8C(3)(b)(ii)** to the underlying supplier is equal to 8.5% of the value of the supply of the listed services.
- (23) In section 20(4)(c), replace “21FB(4)” with “21FB(4)(b)”.
- (24) In **section 20(4)(c)** replace “period.” with “period; or” and after **section 20(4)(c)**, insert:
- (d) in the case of a registered person who elected to return output tax under section 91(3), the taxable period in which the election was made.
- (25) In section 20(4C), replace “section 8(3)(ab) applies or a supply of remote services to which section 8(3)(c) applies,” with “section 8(3)(ab) applies, or a supply of remote services to which section 8(3)(c) applies, or a supply of listed services referred to in **section 8C**.”.
- (26) After section 20(4D), insert:
- (4E) For the purposes of **subsection (3JD)**, an output tax adjustment for the flat-rate credit must be made by the underlying supplier of listed services in a taxable period in which they received the flat-rate credit.
- (27) **Subsections (3), (4), (13), (14), (15), (16), (22), (25), and (26)** apply to taxable periods starting on or after 1 April 2024.
- (28) **Subsections (6), (9), (12), (17) and (21)** apply to goods and services acquired on or after 1 April 2023.
- (29) **Subsection (23)** applies from a registered person’s adjustment period starting on or after 1 April 2023.

- 117 Section 20G repealed (Treatment of supplies of certain assets)**
- (1) Repeal section 20G.
 - (2) **Subsection (1)** applies from a registered person’s adjustment period starting on or after 1 April 2024.
- 118 Section 21 amended (Adjustments for apportioned supplies)** 5
- (1) In section 21(2)(b), replace “5,000” with “10,000”.
 - (2) In section 21(2)(d) replace “.” with “:”.
 - (3) After section 21(2)(d), insert:
 - (e) they have elected to apply section 14(4) to the supply.
 - (4) Replace section 21(4) with: 10
 - (4) For an adjustment to which sections 21A to 21H apply, a registered person who principally makes supplies of financial services may choose to use a fair and reasonable method, as agreed with the Commissioner, for making adjustments in subsequent adjustment periods. For this purpose, the person may include a group of companies. 15
 - (5) Replace section 21(4B) with:
 - (4B) A registered person may choose to use, for making adjustments to which sections 21A to 21H apply, a fair and reasonable method of calculating adjustments that is agreed with the Commissioner by— 20
 - (a) the registered person:
 - (b) an industry association, if the method is intended by the Commissioner and the industry association to be available to a person such as the registered person.
 - (6) **Subsection (1)** applies to goods and services acquired on or after 1 April 2023. 25
 - (7) **Subsections (2) and (3)** apply to supplies made on or after 1 April 2011, but not to supplies for which an assessment has been made prior to 30 August 2022.
- 119 Section 21B amended (Adjustments when person or partnership becomes registered after acquiring goods and services)** 30
- In section 21B(2), delete “20G,”.
- 120 Section 21D amended (Calculating amount of adjustment)**
- In section 21D(3), delete “and section 20G,”.
- 121 Section 21F amended (Treatment on disposal)**
- (1) In section 21F(6), after “lots,”, insert “or if **section 5(16B)** applies,”. 35

- (2) In section 21F(6)(a), replace “for a disposal of land that the person acquired as a zero-rated supply”, with “for a disposal that the person acquired as a zero-rated supply under section 11(1)(m) or (mb)”.
- (3) **Subsection (1)** applies to goods and services supplied on or after 1 April 2023. 5

122 Section 21FB replaced and amended (Treatment when use changes to total taxable or non-taxable use)

- (1) Replace section 21FB(3)(b) with:
- (b) **actual deduction** is the amount of deduction already claimed, taking into account adjustments made up to the end of the adjustment period referred to in subsection (1)(c)(ii) and including any nominal GST component chargeable under section 20(3J)(a)(i) which has not previously been returned as output tax under section 20(3J)(a)(iv). 10

- (2) Replace section 21FB with:

21FB Treatment when percentage of taxable use permanently changes 15

- (1) This section applies where the person’s use of goods or services in making taxable supplies, as a percentage of total use, permanently changes.
- (2) The person’s adjustment for the adjustment period following the period in which the change occurred, is an amount calculated using the formula—

$$\text{full input tax deduction} \times \text{new intended use percentage} - \text{previous net deductions.}$$
 20
- (3) In the formula,—
- (a) **full input tax deduction** is the total amount of input tax on the supply, after taking into account any nominal GST component chargeable under section 20(3J)(a)(i): 25
- (b) **new intended use percentage** means the extent to which the goods or services are used, determined by the use from the date the permanent change occurred up to the end of the adjustment period in which the change occurred, and intended to be used for the foreseeable future, by the person for making taxable supplies: 30
- (c) **previous net deductions** means the input tax deduction claimed by the person on acquisition of the goods or services after taking into account any nominal GST component chargeable under section 20(3J)(a)(i) which has not previously been returned as output tax under section 20(3J)(a)(iv), plus or minus, as the case may be, any previous adjustments made. 35
- (4) For the purposes of **subsection (2)**—
- (a) if the amount is positive, the person is entitled to an additional input tax deduction under section 20(3)(e); or

- (b) if the amount is negative, the person must treat the amount as a positive amount of output tax and attribute it to a taxable period under section 20(4).
- (3) **Subsection (2)** applies from a registered person’s adjustment period starting on or after 1 April 2023. 5
- 123 Section 21G amended (Definitions and requirements for apportioned supplies and adjustment periods)**
- (1) In section 21G(1), words before paragraph (a), delete “20G,”.
- (2) In section 21G(1)(a)(ii), after “acquired”, insert “, or if **section 21FB** has been applied to the goods or services, from the point of the calculation made under that section”. 10
- (3) In section 21G(2), words before paragraph (a), delete “20G,”.
- (4) In section 21G(2), words before paragraph (a), insert “**21FB**,” after “21F”.
- (5) In section 21G(4), words before paragraph (a), replace “sections 20G and 21A, as applicable,” with “section 21A”. 15
- (6) Replace section 21G(4)(a) with:
- (a) one of the following based on the value of the goods or services, excluding GST:
- (i) 2 adjustment periods for goods or services valued at more than \$10,000 but not more than \$20,000: 20
- (ii) 5 adjustment periods for goods or services valued at more than \$20,000 but not more than \$500,000:
- (iii) 10 adjustment periods for land, or goods or services valued at more than \$500,000; or
- (7) In section 21G(5), replace “Subsection (4) does” with “**Subsection (4)(a)(i) and (ii)** does”. 25
- 124 Section 21HB amended (Transitional rules related to treatment of dwellings)**
- In section 21HB(7)(b), replace “21FB(4)” with “**21FB(4)(b)**”.
- 125 Section 26AA amended (Marketplace operators: bad debts for amounts of tax)** 30
- (1) In section 26AA(1), replace “goods or remote services” with “goods, remote services, or listed services”.
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024.

- 126 Section 51 amended (Persons making supplies in course of taxable activity to be registered)**
- (1) In section 51(1C), replace “8(3)(ab) applies or of remote services to which section 8(3)(c) applies,” with “8(3)(ab) applies, or of remote services to which section 8(3)(c) applies, or of listed services referred to in **section 8C**,”. 5
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024.
- 127 Section 58 amended (Personal representative, liquidator, receiver, etc)**
- (1) In section 58(1), definition of **incapacitated person**, replace “liquidation or receivership” with “liquidation, receivership, or voluntary administration”.
- (2) In section 58(1), definition of **specified agent**, replace “liquidator, or receiver” with “liquidator, receiver, or administrator”. 10
- 128 Section 60 amended (Agents and auctioneers)**
- (1) In section 60(1A)(b), replace “goods or remote services” with “goods, remote services, or listed services”.
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2024. 15
- 129 Section 60C amended (Electronic marketplaces)**
- (1) In section 60C(1)—
- (a) in paragraph (a), replace “goods or a supply of remote services” with “goods, or a supply of remote services, or a supply of listed services”;
- (b) in paragraph (ab), replace “for a marketplace” with “for a supply of goods or a supply of remote services, in relation to a marketplace”;
- (c) replace paragraph (c) with:
- (c) the supply is of—
- (i) remote services made to a person resident in New Zealand;
- (ii) goods made to a person involving delivery at a place in New Zealand; 25
- (iii) listed services performed, provided, or received in New Zealand.
- (2) In section 60C(2), words before paragraph (a), replace “in the course of furtherance of” with “in the course or furtherance of”.
- (3) After section 60C(2)(a), insert: 30
- (ab) listed services if the services are performed, provided, or received in New Zealand:
- (4) After section 60C(2B), insert:
- (2BB) Subsection (2) does not apply in relation to a supply of listed services that consists of accommodation services described in **section 8C(2)(a)** provided through an electronic marketplace if— 35

- (a) the underlying supplier is a large commercial enterprise that meets the criteria—
- (i) set out in a determination made by the Commissioner under **subsection (2BC)**; or
- (ii) referred to in **subsection (2BE)**; and 5
- (b) the documentation provided to the recipient identifies the supply as made by the underlying supplier and not the electronic marketplace; and
- (c) the underlying supplier and the operator of the electronic marketplace have agreed, recording their agreement in a document, that the underlying supplier is liable for the payment of tax in relation to the supplies of listed services and will continue to remain responsible for their tax obligations under this Act. 10
- (2BC) For the purposes of **subsection (2BB)**, the Commissioner may determine the circumstances in which, and the criteria that a person must meet to be a large commercial enterprise having regard to the factors set out in **subsection (2BD)**. 15
- (2BD) In making the determination under **subsection (2BC)**, the Commissioner must have regard to—
- (a) the compliance costs that would arise for underlying suppliers in making changes to their accounting systems and practices: 20
- (b) the size, scale, and nature of the accommodation services and activities undertaken by underlying suppliers.
- (2BE) Despite a determination made under **subsection (2BC)**, a person who is an underlying supplier may enter into an agreement with the operator of the electronic marketplace to enable the underlying supplier to be treated as a large commercial enterprise if they have— 25
- (a) 2000 nights accommodation listed as available on the electronic marketplace in a 12-month period; and
- (b) a reasonable expectation that they can meet the threshold in **paragraph (a)** for any 12-month period. 30
- (5) In section 60C(3), replace “goods or supply of remote services,” with “goods, remote services, or listed services.”
- (6) **Subsections (1), (3), (4), and (5)** apply for taxable periods starting on or after 1 April 2024.
- 130 New section 60H inserted (Information requirements for underlying suppliers operating through electronic marketplaces) 35**
- (1) After section 60G, insert:

60H	Information requirements for underlying suppliers operating through electronic marketplaces	
(1)	An underlying supplier of listed services operating on an electronic marketplace must notify the operator of the electronic marketplace of—	
	(a) their name and tax file number:	5
	(b) their GST registration status.	
(2)	For the purposes of subsection (1)(b) , if the GST registration status of an underlying supplier changes, the underlying supplier must notify the operator of the electronic marketplace as soon as practicable.	
(3)	Once notified under subsection (1) or (2) , the operator may rely on the information provided by the underlying supplier, and a deficiency in an amount of output tax allocated to a taxable period that arises as a consequence of relying on the information provided is treated as a reduction in the total output tax allocated to the taxable period.	10
(4)	In addition to the information required to be provided under subsections (1) and (2) , an underlying supplier must also comply with the obligations imposed on them under section 185S(4) of the Tax Administration Act 1994 in relation to their obligation to provide information to a reporting platform operator under Part 11B of that Act.	15
(2)	Subsection (1) applies for taxable periods starting on or after 1 April 2024.	20
131	Section 75 amended (Keeping of records)	
(1)	In section 75(3F), replace “8(3)(ab) applies or of remote services to which section 8(3)(c) applies,” with “8(3)(ab) applies, or of remote services to which section 8(3)(c) applies, or of listed services referred to in section 8C ,”.	
(2)	Subsection (1) applies for taxable periods starting on or after 1 April 2024.	25
132	Section 77 amended (New Zealand or foreign currency)	
(1)	In section 77(2), replace “8(3)(ab) applies or of remote services to which section 8(3)(c) applies” with “8(3)(ab) applies, or of remote services to which section 8(3)(c) applies, or of listed services referred to in section 8C ,”.	
(2)	Subsection (1) applies for taxable periods starting on or after 1 April 2024.	30
133	New section 81B inserted (Limitation on amending assessments for legislative charges)	
	Before the heading to Part 12, insert:	
81B	Limitation on amending assessments for legislative charges	
	Despite section 25 of this Act, and sections 113 and 113A of the Tax Administration Act 1994, as applicable, a person or the Commissioner must not amend an assessment in a manner that is inconsistent with section 5(6EC) to (6EE) .	35

134 New section 85D inserted (Transitional provision for certain supplies of listed services)

After section 85C, insert:

85D Transitional provision for certain supplies of listed services

- (1) This section applies for the purposes of this Act in relation to a supply of listed services that consist of accommodation services provided through an electronic marketplace by an underlying supplier— 5
- (a) to enable a person meeting the criteria under **section 60C(2BC) or (2BE)** for a large commercial enterprise to enter into an agreement with the operator of an electronic marketplace, or a person who would be an operator of an electronic marketplace after 1 April 2024; and 10
- (b) for the period that starts on the date of Royal Assent for the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022** (the **amendment Act**) and ends on 1 April 2024 (the **transitional period**). 15
- (2) Despite the commencement provisions in the amendment Act, the person may choose to enter into an opt-out agreement described in **section 60C(2BB) to (2BE)** for the transitional period or a part of it. For the purpose of determining whether an opt-out agreement is available, the provisions of the amendment Act relating to a supply of listed services that consist of accommodation services are treated as if they commenced on the date of Royal Assent for the amendment Act. 20

135 New section 90 inserted and repealed (Transitional regulation making power: legislative charges)

- (1) After section 89, insert: 25
- 90 Transitional regulation making power: legislative charges**
- (1) For the purposes of **section 5(6ED)(a)**, the Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, add a charge or class of charges to the **schedule**. 30
- (2) Before making a recommendation referred to in **subsection (1)**, the Minister must be satisfied that the charge should be non-taxable, having regard to whether making the charge non-taxable is consistent with the approach taken for other charges with similar characteristics. 30
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 35
- (2) Repeal **section 90**.

136 New section 91 inserted (Certain private goods removed from tax base before 1 April 2025)

After **section 90**, insert:

91 Certain private goods removed from tax base before 1 April 2025

- (1) This section applies when— 5
- (a) a registered person has previously claimed a deduction under section 20(3) for goods, or acquired them as zero-rated supplies; and
 - (b) the goods were acquired before 1 April 2023; and
 - (c) the goods were not acquired for the principal purpose of making taxable supplies; and 10
 - (d) the goods were not used for the principal purpose of making taxable supplies.
- (2) The person may elect to return output tax equal to the amount set out in **subsection (3)** by notifying the Commissioner before 1 April 2025, in a way acceptable to the Commissioner, of— 15
- (a) the election; and
 - (b) the election date; and
 - (c) the information required by the Commissioner relating to the election.
- (3) If a person makes an election under **subsection (2)**, they must return output tax equal to— 20
- (a) the input tax previously deducted for the supply minus the amount of output tax adjustments already made for non-taxable use;
 - (b) if the supply was acquired by them as a zero-rated supply, the nominal GST component chargeable under section 20(3J)(a)(i) minus the amount of output tax adjustments already made for non-taxable use. 25
- (4) If after returning output tax under **subsection (3)**, the person has claimed no deduction under section 20(3) for the goods, then any future disposal of the goods is an exempt supply.

137 New schedule inserted (Non-taxable legislative charges)

After **section 91**, insert the **schedule** set out in the **schedule** of this Act. 30

Part 4

Amendments to the Tax Administration Act 1994

138 Amendments to the Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

139 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) Insert, in appropriate alphabetical order:
DRC D deferral date has the meaning given by **section RA 6(6)** of the
Income Tax Act 2007 5
- (3) Insert, in appropriate alphabetical order:
extended model reporting standard for digital platforms means—
(a) the model reporting standard for digital platforms, as amended from time
to time by regulations made under **section 226F**; and
(b) the *Model Reporting Rules for Digital Platforms: International* 10
Exchange Framework and Optional Module for Sale of Goods, as
amended from time to time by regulations made under **section 226F**
- (4) Insert, in appropriate alphabetical order:
foreign exemption trust, for an income year or part of an income year (the
test period), means a trust for which a trustee is resident in New Zealand in the 15
test period, no election under section HC 33 of the Income Tax Act 2007 is
effective for the trust and the test period, and either or both—
(a) no settlor is resident in New Zealand at any time in the period—
(i) starting on the later of 17 December 1987 and the date on which a
settlement was first made on the trust; and 20
(ii) ending at the end of the test period;
(b) the trustee takes a tax position that an amount of income derived by the
trustee in or before the test period is exempt income under section
HC 26 of the Income Tax Act 2007
- (5) In the definition of **large multinational group**, paragraph (c), replace “5.53” 25
with “5.52”.
- (6) Insert, in appropriate alphabetical order:
model reporting standard for digital platforms means the *Model Rules for*
Reporting by Platform Operators with respect to Sellers in the Sharing and Gig
Economy, as amended from time to time by regulations made under **section** 30
226F, that is a standard—
(a) developed by the Organisation for Economic Co-operation and Develop-
ment and the Group of Twenty countries; and
(b) agreed by the Council for the Organisation for Economic Co-operation
and Development 35
- (7) In the definition of **professional trustee**,—
(a) delete “, in section 43B,”;
(b) delete the words after “as a trustee”.

- (8) Insert, in appropriate alphabetical order:
reporting platform operator, in **sections 22(2)(fe) and (lf), 94D, 142J, 143(2E), 185S, and 226F**, has the meaning set out in the model reporting standard for digital platforms or the extended model reporting standard for digital platforms, as applicable 5
- 140 Section 4A amended (Construction of certain provisions)**
In section 4A(3)(bc), replace “unpaid,” with “unpaid and”.
- 141 Section 22 amended (Keeping of business and other records)**
- (1) In section 22(2)(fd), replace “CRS applied standard,—” with “CRS applied standard:” 10
- (2) After section 22(2)(fd), insert:
(fe) is a reporting platform operator to whom **section 185S** applies—
- (3) After section 22(2)(le), insert:
(lf) for a reporting platform operator, evidence of steps undertaken in the operation of the digital platform, and information relied on for the performance of due diligence procedures and reporting requirements set out in the model reporting standard for digital platforms and the extended model reporting standard for digital platforms, as applicable; and 15
- 142 Section 23I amended (Employment income information requirements for employees)** 20
In section 23I,—
- (a) after the section title, insert as a subsection heading “*PAYE income payments*”:
- (b) after “in which the payment is made.”, insert:
Information about certain benefits 25
- (2) An employee who is required to provide information under **section RD 62B or RD 71B** of the Income Tax Act 2007 must provide the information described in **schedule 4, table 1, rows 1 to 4** to the Commissioner within 10 working days after the end of the month in which the payment, benefit, or contribution, as applicable, is made. 30
- 143 New subpart heading and section 23R inserted**
After section 23Q, insert:

Subpart 3D—Schedular payment information

23R Information reporting: schedular payments made to non-resident contractors*When this section applies*

- (1) This section applies for an income year when a person makes, or is treated as making, a schedular payment referred to in **section RD 8** and schedule 4, part A of the Income Tax Act 2007 to or on behalf of a non-resident contractor. 5

Schedular payment information

- (2) The person must provide the schedular payment information set out in **schedule 6B** to the Commissioner— 10
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the 15th of the month following the month in which—
- (i) the contract starts:
- (ii) the payment is made to the non-resident contractor: 15
- (iii) the contract ends.

144 Section 24H amended (Exempt schedular payments)

In section 24H, replace “is to be withheld.” with “is to be withheld. For this purpose, the Commissioner may include in the notification a retroactive period of up to 92 days before the date of their application in which to include a schedular payment.” 20

145 New section 24HB inserted (Schedular payments: tax obligations undertaken by nominated persons)

After section 24H, insert:

24HB Schedular payments: tax obligations undertaken by nominated persons 25*When this section applies*

- (1) This section applies for the purposes of calculating and paying amounts of tax for a schedular payment to a non-resident contractor under schedule 4, part A of the Income Tax Act 2007 for a tax year when—
- (a) the contractor is liable under section RD 21, **RD 62B, or RD 71B** of that Act to pay some or all of the amount of tax for the payment that was not withheld at the time the payment was made; and 30
- (b) an arrangement is made between the contractor and a person resident in New Zealand who is associated with the contractor in relation to the contractor’s tax obligations for the payment. 35

	<i>Nominating person to carry out tax obligations</i>	
(2)	The contractor may nominate the person to carry out the contractor’s tax obligations in relation to the payment under section 124F.	
	<i>Notifying Commissioner</i>	
(3)	The nominated person must notify the Commissioner that they act on behalf of the contractor in discharging the contractor’s tax obligations for the tax year in relation to the payment.	5
	<i>Compliance history</i>	
(4)	The actions of the nominated person may provide a compliance history for the purposes of section RD 24(1)(c) of the Income Tax Act 2007, and for an application under section 24H for an exempt payment.	10
	<i>No separate return</i>	
(5)	The contractor may not make a separate assessment or return for the tax year, unless they are, for part of the corresponding income year, not part of the arrangement.	15
	<i>Joint and several liability</i>	
(6)	Despite subsections (2) and (3) , each person who is part of the arrangement is jointly and severally liable for the amount of tax for the schedular payment.	
146	Section 25E amended (Who must provide investment income information to Commissioner)	20
	In section 25E(1)(i), after “section FL 2”, insert “or FL 3 ”.	
147	Section 25G amended (Information on dividends)	
(1)	After the heading to section 25G, insert “ <i>Delivery of investment income information</i> ” as a subsection heading.	
(2)	In section 25G, insert as subsection (2):	25
	<i>Certain dividends derived by dual resident companies</i>	
(2)	For the purposes of subsection (1) and a dividend described in section CD 1(3) of the Income Tax Act 2007, the payer must treat the DRCDD deferral date as the date on which the amount of investment income is paid to or derived by the payee.	30
148	Section 29 amended (Shareholder dividend statement to be provided by company)	
(1)	In section 29(1C)(b), replace “of the Income Tax Act 2007 (which relates to an emigrating company)” with “or FL 3 of the Income Tax Act 2007”.	
(2)	After section 29(2), insert:	35

- (3) For the purposes of this section, a company that pays to a shareholder a dividend described in **section CD 1(3)** of the Income Tax Act 2007 is treated as paying the dividend on the DRCD deferral date.
- 149 Section 43B amended (Trustees of non-active trusts and administrators or executors of non-active estates may be excused from filing returns)** 5
- (1) Replace the heading to section 43B with “**Trustees, administrators, or executors of certain trusts or estates not required to file returns**”.
- (2) In section 43B(1)(c), words before subparagraph (i) replace “the person has” with “if the trust has a tax file number, the person has”.
- (3) In section 43B(3)(b), replace “200” with “1,000”. 10
- (4) Replace section 43B(3)(c) with:
- (c) income earned by the trust or estate during the tax year that would be reportable income, as defined in section 22D of the Tax Administration Act 1994, if the trust or estate was an individual, to the extent to which the total amount of that income does not exceed \$1,000; or 15
- (5) In section 43B(3)(d), after “rates,”, insert “interest,”.
- (6) After section 43B(3), insert:
- (3B) If subsection (1) does not apply, a person who is a trustee of a trust is also not required to make a return of income for a tax year for the trust— 20
- (a) if the trust is a testamentary trust; and
- (b) distributions from the trust during the income year do not exceed \$100,000; and
- (c) where the trust earned income that would be reportable income, as defined in section 22D of the Tax Administration Act 1994, if the trust was an individual, tax has been deducted from that income at the correct rate, and the total amount of that income does not exceed \$5,000 for the income year; and 25
- (d) the trust derives non-reportable income of \$1,000 or less and the trust has deductions against that income of at least \$800 for the income year.
- (7) Replace section 43B(4) with: 30
- (4) If subsections (2) or **(3B)** cease to apply to a trust or estate, a trustee of the trust or administrator or executor of the estate must notify the Commissioner that the relevant subsection no longer applies.
- (8) Replace section 43B(5) with:
- (5) Despite subsection (1) or **(3B)**, a person referred to in subsection (1) or **(3B)** must furnish a return of income if required by the Commissioner to do so. 35
- (9) **Subsections (1), (2), (3), (4), (5), (6), (7), and (8)** apply for the 2021–22 and later income years.

- 150 Section 59BA amended (Annual return for trusts)**
- (1) In section 59BA(3)(a), delete “(which relates to non-active trusts)”.
 - (2) In section 59BA(3)(b), replace “foreign trust” with “foreign exemption trust”.
- 151 Section 59B amended (Foreign trust with resident foreign trustee: registration and disclosure)** 5
- (1) In section 59B, heading, replace “**Foreign trust with resident foreign trustee**” with “**Foreign exemption trust**”.
 - (2) Replace section 59B(1) with:
 - (1) The Commissioner may register a foreign exemption trust if a trustee pays the prescribed fee. 10
 - (1B) The Commissioner may treat the registration of a trust under **subsection (1)** as being in force from a date preceding the successful application for registration of the trust, if the Commissioner considers that the trustee made reasonable efforts to obtain registration at the earlier date.
 - (1C) A trust that is registered under this section as a foreign trust at the start of the day on which the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022** receives the Royal assent is treated as being registered as a foreign exemption trust from that day. 15
 - (3) Replace section 59B(2) with:
 - (2) A trustee of a foreign exemption trust must apply to the Commissioner for registration of the foreign exemption trust, provide the information required by **subsection (3)** and the declaration required by subsection (4), and pay the prescribed fee. 20
 - (2B) The requirement under **subsection (2)** for a trustee to register a foreign exemption trust commences on the later of— 25
 - (a) the date (the **amendment assent date**) on which the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022** receives the Royal assent:
 - (b) the due date for an income tax return of the trust relating to the first income year for which the trust meets the requirements to be a foreign exemption trust. 30
 - (4) In section 59B(3), words before paragraph (a), replace “foreign trust” with “foreign exemption trust”.
 - (5) In section 59B(3)(b)(i), replace “is in the business of providing trustee services” with “is a professional trustee”. 35
 - (6) Replace section 59B(3)(c)(vi) and (vii) with:
 - (vi) each beneficiary that is not a minor and has a fixed interest in the trust:

- (vib) each nominee for a beneficiary that has a fixed interest in the trust:
- (vii) the parent or guardian of a beneficiary that is a minor and has a fixed interest in the trust:
- (7) Replace section 59B(3)(d) and (e) with: 5
- (d) for each beneficiary that is a minor and has a fixed interest in the trust, the name, date of birth, and taxpayer identification number of the beneficiary:
- (e) for each beneficiary or class of beneficiary that has a discretionary interest in the trust, details sufficient for the Commissioner to determine, when a distribution is made under the trust, whether a person is a beneficiary: 10
- (8) After **section 59B(3)(e)**, insert:
- (eb) for each beneficiary or class of beneficiary that has a residual interest in the trust, details sufficient for the Commissioner to determine, when a distribution is made in the winding up of the trust, whether a person is a residual beneficiary: 15
- (9) Replace section 59B(3)(f) with:
- (f) a copy of the trust deed, or will or other document that creates and governs the trust, (the **creating document**) and of each document that amends or supplements the creating document. 20
- (10) In section 59B(6), words before paragraph (a), after “to the Commissioner”, insert “, within 30 days of becoming aware of the anticipated date of the cessation,”.
- (11) After section 59B(6), insert: 25
- (6B) A contact trustee who anticipates a change in the trustee’s e-mail address, physical residential address, or other contact details, must provide the Commissioner with details of the change within 30 days of becoming aware of the anticipated change.
- (12) Replace section 59B(7) with: 30
- (7) Each trustee of a foreign exemption trust is responsible for the performance of the obligations imposed on a trustee relating to registration of the trust, disclosure of information, annual returns, financial statements, and payment of fees.
- (13) **Subsections (7) and (8)** do not apply for a trust except if the trustee makes an application for registration after the date on which the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022** receives the Royal assent. 35

152 Section 59C amended (Time limits for registration and disclosure of changes)

- (1) Replace section 59C(1) with:
- (1) A trustee who becomes required to register a foreign exemption trust under **section 59B(2B)**—
- (a) on the date (the **amendment assent date**) on which the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act (No 2) **2022** receives the Royal assent, is required to apply for the registration in the period beginning with the amendment assent date and ending with **30 April 2023**, except if subsection (3) applies; or
- (b) after the amendment assent date, is required to apply for the registration in the period of 30 days from which the requirement commences, except if subsection (3) applies.
- (2) Replace section 59C(2) with:
- (2) A trustee who is required by section 59B(5) to provide information to the Commissioner after an application for the trust to be registered, must provide the information before or with the income tax return that is next due after the trustee becomes aware of the addition or alteration.
- (3) In section 59C(3)(a), replace “foreign trust” with “trust”.
- (4) Replace section 59C(3)(b) with:
- (b) for each trustee of the trust who is responsible for the performance of the obligations imposed by **section 59B**, the trust is the first trust for which the trustee has been a trustee; and
- (5) In section 59C(3)(c), replace “the foreign trust is not in the business of providing trustee services” with “the trust is not a professional trustee”.
- (6) Replace section 59C(3)(d), with:
- (d) the end of the period of 4 years and 30 days beginning with the earliest date on which the trust becomes a foreign exemption trust (the **grace period**) occurs after the period that would otherwise be given by subsection (1).

153 Section 59D amended (Annual return for foreign trust)

- (1) In section 59D, heading, replace “**foreign trust**” with “**foreign exemption trust**”.
- (2) Replace section 59D(1) with:
- (1) A trustee of a foreign exemption trust must provide to the Commissioner a return for the trust, the declaration required by **subsection (2B)**, and the prescribed fee, for each year (the **return year**) that—
- (a) includes a period in which—

<ul style="list-style-type: none"> (i) a trustee of the trust derives income for which the trustees of the trust take a tax position that the income is exempt income under section HC 26 of the Income Tax Act 2007: (ii) the trust is registered as a foreign exemption trust or a trustee is required to register the trust; and 	5	
<ul style="list-style-type: none"> (b) ends with— <ul style="list-style-type: none"> (i) a date (the balance date) for which the trustee prepares financial statements or is required to prepare financial statements; or (ii) 31 March if the trustee does not prepare financial statements and is not required to prepare financial statements; and 	10	
<ul style="list-style-type: none"> (c) begins after 31 March 2023, if a trustee becomes required to register the trust on the date of enactment of this subsection; and (d) if the trustee has a grace period referred to in section 59C(3), ends after the grace period. 		
(3)	In section 59D(2)(e), replace “the age” with “the date of birth”.	15
(4)	After section 59D(2)(e), insert: <ul style="list-style-type: none"> (f) details of each addition or alteration to a particular provided with an application for registration or in an earlier return, if the details have not been provided earlier. 	
(5)	After section 59D(2), insert:	20
(2B)	The trustee must provide a signed declaration that each settlor referred to in subsection (2)(c)— <ul style="list-style-type: none"> (a) is deceased; or (b) despite the efforts of the trustee detailed in the declaration, cannot be located by the trustee; or (c) has been informed of, and has agreed to provide the information necessary for compliance with the requirements relating to the provision of information relating to the settlement, the trust, and persons connected with the trust, imposed by all of— <ul style="list-style-type: none"> (i) the Tax Administration Act 1994: (ii) the Anti-Money Laundering and Countering Financing of Terrorism Act 2009: (iii) the regulations made under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. 	25
(6)	Replace section 59D(3) with:	30
(3)	A return and the prescribed fee for a foreign exemption trust and a return year must be provided by a trustee to the Commissioner by the later of— <ul style="list-style-type: none"> (a) the date by which the trustee is required to apply for registration of the trust: 	35

- (b) the date that is—
 - (i) 6 months after the balance date for the trust and the return year, if the trust has a balance date; or
 - (ii) the 30 September following the end of the return year, if the trust does not have a balance date.

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154 New section 59DB inserted (Deregistration of foreign exemption trusts)

After section 59D, insert:

59DB Deregistration of foreign exemption trusts

- (1) The Commissioner may deregister a trust that is registered as a foreign exemption trust if the Commissioner considers that the trust—
 - (a) at the time of registration, did not meet the requirements for registration:
 - (b) after the time of registration, ceased to meet the requirements for registration.
- (2) A deregistration under **subsection (1)** may be effective from—
 - (a) the time of registration, if the Commissioner considers the trust did not meet the requirements for the registration; or
 - (b) a time after the registration at which the Commissioner considers the trust had ceased to meet the requirements for registration.
- (3) If the Commissioner proposes to deregister a trust, the Commissioner must give notice of the proposal to the contact trustee of the trust not less than 30 days before the deregistration is implemented.
- (4) The contact trustee for a trust must apply to the Commissioner for deregistration of the trust if the trustee becomes aware that the trust does not meet the requirements for registration.
- (5) A trustee making an application under **subsection (4)** must provide with the application—
 - (a) the reasons for the application; and
 - (b) a return for the trust for the income year, or part of the income year, for which the trust meets the requirements for registration and that includes the day before the day on which the trust ceases to meet the requirements for registration; and
 - (c) further information required by the Commissioner.

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155 Section 59E amended (Fees: regulations and exemption)

- (1) In section 59E(1), replace “foreign trust” with “foreign exemption trust” in each place.
- (2) In section 59E(3), replace “foreign trust” with “foreign exemption trust” in each place.

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- (3) In section 59E(5), words before paragraph (a),—
- (a) replace “resident foreign trustee” with “trustee” in each place:
 - (b) replace “foreign trust” with “foreign exemption trust” in each place.
- (4) Replace section 59E(5)(b) with:
- (b) is not a professional trustee. 5
- 156 New section 61B inserted (Disclosure requirements for high-value assets intended to be used in making taxable supplies)**
- After section 61, insert:
- 61B Disclosure requirements for high-value assets intended to be used in making taxable supplies** 10
- (1) A registered person who acquires land, pleasure craft, or an aircraft, with the intention of using it to make taxable supplies must disclose to the Commissioner, in the form and by the deadline prescribed by the Commissioner—
 - (a) the existence and nature of the acquisition; and
 - (b) such other information as may be required by the Commissioner. 15
 - (2) The Commissioner may exempt any person or class of persons from the requirements of **subsection (1)** where, in the opinion of the Commissioner, that person is at low risk of using the relevant asset for a use other than for making taxable supplies.
 - (3) For the purposes of this section— 20
 - (a) **aircraft** has the meaning set out in section 2 of the Civil Aviation Act 1990:
 - (b) **land** has the meaning set out in section 2 of the Goods and Services Tax Act 1985:
 - (c) **pleasurecraft** has the meaning set out in section 2 of the Maritime Transport Act 1994. 25
- 157 Section 68CB amended (Research and development tax credits: general approval)**
- (1) In section 68CB(1)(c), replace “; and” with “.”.
 - (2) Delete section 68CB(1)(d). 30
 - (3) After section 68CB(3), insert:
 - (3B) If a person’s research and development activities materially change during the period of an approval, and they want the change to be covered by the approval, they must apply to the Commissioner for a variation of the approval by the deadline in subsection (7) or (7B), as applicable. 35
 - (4) **Subsections (1), (2), and (3)** apply for the 2020–21 and later income years.

- 158 Section 68CC amended (Research and development tax credits: greater than \$2 million approval)**
- (1) After section 68CC(4), insert:
- (4B) If a person’s criteria and methodologies materially change during the period of an approval, and they want the change to be covered by the approval, they must apply to the Commissioner for a variation of the approval by the deadline in subsection (8). 5
- (2) **Subsection (1)** applies for the 2020–21 and later income years.
- 159 Section 89AB amended (Response periods)**
- (1) Replace section 89AB(3) with: 10
- (3) When the initiating notice is a notice of assessment issued by a taxpayer, the response period for a notice of proposed adjustment under section 89DA is a 4-month period starting on the date of issue of the initiating notice.
- (2) Replace section 89AB(4) with:
- (4) When the initiating notice is either a notice of disputable decision or a notice revoking or varying a disputable decision that is not an assessment, the response period for a notice is— 15
- (a) a 2-month period starting on the date of issue of the initiating notice; or
- (b) for a notice of proposed adjustment, a 4-month period starting on the date of issue of the initiating notice. 20
- (3) Repeal section 89AB(6).
- (4) **Subsections (1), (2), and (3)** apply for the 2009–10 and later income years.
- 160 Section 89C amended (Notices of proposed adjustment required to be issued by Commissioner)**
- (1) After section 89C(lba), insert: 25
- (lbab) the assessment is of a penalty under **section 142J or 142K**; or
- (2) After section 89C(lb), insert:
- (lbb) the assessment extinguishes all or part of a taxpayer’s excess amount under section EL 4 of the Income Tax Act 2007 in accordance with **section 177C(5BA)**; or 30
- 161 Section 91C amended (Taxation laws in respect of which binding rulings may be made)**
- (1) Repeal section 91C(4).
- (2) **Subsection (1)** applies for the 2009–10 and later income years.

162 New section 94D inserted (Assessment of penalties related to requirements under model rules)

After section 94C, insert:

94D Assessment of penalties related to requirements under model rules

- (1) The Commissioner may make an assessment for a reporting platform operator of the amount of a penalty under **section 142J(1) to (5)** that, in the Commissioner’s opinion, ought to be imposed, and the operator is liable to pay the penalty assessed. 5
- (2) The Commissioner may make an assessment for a seller operating on a digital platform of a reporting platform operator of the amount of a penalty under **section 142K** that, in the Commissioner’s opinion, ought to be imposed, and the seller is liable to pay the penalty assessed. 10
- (3) Despite **subsections (1) and (2)**, this section does not apply in so far as the operator or seller, as applicable, establishes in proceedings challenging the assessment that the assessment is excessive or that the operator or seller, as applicable, is not chargeable with the penalty. 15

163 New section 108AC inserted (Time bar for amending assessment of student loan deductions)

After section 108AB, insert:

108AC Time bar for amending assessment of student loan deductions

- (1) The Commissioner may not amend an assessment when— 20
 - (a) a taxpayer provides employment income information that includes an amount of salary or wage deductions required to be made under the Student Loan Scheme Act 2011 which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer; and 25
 - (b) 4 years have passed from the date on which the taxpayer provided the employment income information.
- (2) However, the Commissioner may amend the assessment at any time if the Commissioner is of the opinion that either or both of the following apply: 30
 - (a) employment income information provided by a taxpayer is fraudulent or wilfully misleading;
 - (b) there would a be a significant adverse effect on a borrower, as defined in section 4(1) of the Student Loan Scheme Act 2011, if the assessment is not amended. 35
- (3) This section is subject to section 64 of the Student Loan Scheme Act 2011, but overrides every other provision of this Act, and any other rule or law, that limits the Commissioner’s right to amend assessments.

164 Section 120B amended (Persons excluded)

After section 120B(bb), insert:

- (bc) a non-resident employer who fails to withhold and pay, or pay, an amount of tax for a PAYE income payment to a cross-border employee to the Commissioner in an income year, and the employer— 5
- (i) has either 2 or fewer employees present in New Zealand during the income year or pays \$500,000 or less of employment-related taxes for the income year; and
 - (ii) has made an arrangement for their employment-related tax obligations to be met by another person or has communicated to the employee that the employee must meet those obligations directly: 10

165 Section 124G amended (Refusal, removal, or disallowance of status of tax agents, representatives, and nominated persons)

In section 124G(4)(b), delete “, whether by blood relationship or by adoption”.

166 Section 139A amended (Late filing penalty for certain returns) 15

- (1) In section 139A(6), replace “Subsections (7) to (9) ” with “Subsections (7) and (8)”.
- (2) In section 139A(7), replace “Subject to subsection (9), the” with “The”.
- (3) Repeal section 139A(9).
- (4) **Subsections (1), (2), and (3)** apply to penalties imposed on or after 1 April 2023. 20

167 New section 139AC inserted (Penalty for trustee’s failure to register, provide information for, foreign exemption trust)

After section 139AB, insert:

139AC Penalty for trustee’s failure to register, provide information for, foreign exemption trust 25

- (1) A trustee of a foreign exemption trust is liable to pay a penalty under this section if the trustee fails to comply with the requirements of section 22, 59B, 59C, or 59D.
- (2) The penalty under this section is the amount specified by the Commissioner, which must not be more than \$1,000. 30
- (3) A trustee is not liable to pay a penalty under this section for a failure to comply with requirements if the Commissioner is satisfied that the trustee makes reasonable efforts to comply with the requirements and to remedy the non-compliance with the requirements. 35
- (4) The due date for payment of a penalty imposed under this section is the later of—

(a)	30 days after the date on which the Commissioner issues the notice of assessment for the penalty:	
(b)	the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.	
168	Section 141 amended (Tax shortfalls)	5
(1)	Repeal section 141(7C) and (7D).	
(2)	Subsection (1) applies for the 2009–10 and later income years.	
169	Section 141ED amended (Penalty for unpaid amounts of employers' withholding payments)	
(1)	After section 141ED(1), insert:	10
(1B)	This section does not apply when a non-resident employer fails to withhold and pay, or pay, an amount of tax for an amount of tax for a PAYE income payment to a cross-border employee to the Commissioner in an income year, if the employer—	
(a)	has either 2 or fewer employees present in New Zealand during the income year or pays \$500,000 or less of employment-related taxes for the income year; and	15
(b)	has made an arrangement for their employment-related tax obligations to be met by another person or has communicated to the employee that the employee must meet those obligations directly.	20
(2)	After section 141ED(3)(b), insert:	
(c)	for a non-resident employer and in relation to an amount of tax for a PAYE income payment to a cross-border employee, the employer has made an arrangement for their employment-related tax obligations to be met by another person or has communicated to the employee that the	25
170	New section 141GC inserted (Grace periods for certain schedular payments)	
	After section 141GB, insert:	
141GC	Grace periods for certain schedular payments	30
(1)	This section applies when—	
(a)	a person (the payer) makes a schedular payment referred to in section RD 3 and schedule 4, part A of the Income Tax Act 2007 to a non-resident contractor; and	
(b)	at the time of the payment, it is unclear whether the payer is liable to withhold an amount of tax for the schedular payment, whether because of the application of an exemption threshold or otherwise; and	35

- (c) some or all of the amount of tax is underpaid at the due date for payment of the tax; and
 - (d) the payer is able to demonstrate that they have made a reasonable effort to comply with their tax obligations for the schedular payment.
- (2) When a threshold under **section RD 8** of that Act has been breached, the payer has a 60-day period (the **grace period**) during which they must make a reasonable effort to meet or correct their tax obligations relating to the schedular payments made to the person in relation to the time the person was in New Zealand. The grace period starts to run from the earlier of—
- (a) the date of the breach:
 - (b) the date on which the employer could reasonably foresee that a breach will occur.
- (3) To the extent to which the payer remedies the underpayment of the amount of tax by the end of the grace period, the payer is not liable to pay interest under Part 7 or a penalty under Part 9.

171 Section 142B amended (Due date for shortfall penalties)

Repeal section 142B(2).

172 New sections 142J and 142K inserted

After section 142I, insert:

142J When reporting requirements for operators under model rules for digital platforms not met

- (1) This section applies when a reporting platform operator (the **operator**), including a resident reporting platform operator,—
- (a) is required under **section 185S** to meet all the requirements set out in, as applicable,—
 - (i) the model reporting standard for digital platforms:
 - (ii) the extended model reporting standard for digital platforms; and
 - (b) does not meet the requirements in relation to sellers operating on the digital platform.
- (2) The operator is liable to pay a penalty of \$300 for each occasion on which the operator does not meet the requirements.
- (3) The operator is not liable to pay a penalty under **subsection (2)** if the failure to meet the requirements is shown to be due to circumstances outside the control of the operator.
- (4) If the operator does not take reasonable care to meet a requirement, and no penalty is imposed under **subsection (2)**, the operator is liable to pay a penalty of—
- (a) \$20,000 for the first occasion:

- (b) \$40,000 for each further occasion.
- (5) The total amount of penalties for a reportable period for which an operator is liable must not be more than—
- (a) \$10,000 for a penalty under **subsection (2)**;
- (b) \$100,000 for a penalty under **subsection (4)**. 5
- (6) The due date for payment of a penalty imposed under this section is the later of—
- (a) 30 days after the date on which the Commissioner makes the assessment for the penalty;
- (b) the date set out by the Commissioner in the notice of assessment as being the due date for payment of the penalty. 10
- 142K When reporting requirements for sellers operating on digital platforms not met**
- (1) This section applies when a seller operating on a digital platform—
- (a) is required under **section 185S** to provide information to the reporting platform operator; and 15
- (b) does not meet the requirements.
- (2) The seller is liable to pay a penalty of \$1,000 if they—
- (a) provide false or misleading information to the reporting platform operator about either themselves or another person or entity: 20
- (b) do not provide information to the reporting platform operator about either themselves or another person or entity within a reasonable time after having received a request for the information:
- (c) do not provide information that they are required to provide to the reporting platform operator as a seller operating on the digital platform under— 25
- (i) the model reporting standard for digital platforms:
- (ii) the extended model reporting standard for digital platforms.
- (3) The due date for payment of a penalty imposed under this section is the later of— 30
- (a) 30 days after the date on which the Commissioner makes the assessment for the penalty:
- (b) the date set out by the Commissioner in the notice of assessment as being the due date for payment of the penalty.

173 Section 143 amended (Absolute liability offences and strict liability offences) 35

- (1) Replace section 143(1C) with:

(1C)	No person who is a trustee of a foreign exemption trust may be convicted of an offence against subsection (1)(b) for not disclosing information required to be disclosed under section 59B or 59D if the person proves that the person did not know of the requirements of the section.	
(2)	After section 143(2D), insert:	5
(2E)	No person may be convicted of an offence against subsection (1) if the requirement with which the person does not comply is a requirement under—	
	(a) the model reporting standard for digital platforms:	
	(b) the extended model reporting standard for digital platforms.	
174	Section 167 amended (Recovery of tax and payments from employers or PAYE intermediaries)	10
	Replace section 167(2)(a) with:	
	(a) where the employer is, or one of whom is, an individual, upon the employer’s bankruptcy or upon the employer making an assignment for the benefit of the employer’s creditors, the amount of the tax or payment shall have the ranking provided for in section 274 of the Insolvency Act 2006:	15
175	Section 173M amended (Transfer of excess tax to another taxpayer)	
(1)	In section 173M(5), definition of relative , delete “, or adoption”.	
(2)	Repeal section 173M(6)(c).	20
176	Section 177B amended (Instalment arrangements)	
(1)	In section 177B(7), replace “sections LA 6(2) and LH 2(6)” with “section LA 6(2)”.	
(2)	Subsection (1) applies for the 2009–10 and later income years.	
177	Section 177C amended (Write-off of tax by Commissioner)	25
(1)	After section 177C(5), insert:	
(5BA)	If the Commissioner writes off outstanding tax for a taxpayer who has an excess amount under section EL 4 of the Income Tax Act 2007, the Commissioner must extinguish all or part of the taxpayer’s excess amount, by—	
	(a) dividing the amount written off by 0.33 and reducing the excess amount by that amount, if the taxpayer is not a company; or	30
	(b) dividing the amount written off by 0.28 and reducing the excess amount by that amount, if the taxpayer is a company.	
(2)	Replace section 177C(5C) with:	
(5C)	For a taxpayer for which the Commissioner writes off outstanding tax, subsection (5) applies before subsection (5BA) , and subsection (5BA) applies before subsection (5B).	35

178 Section 185E amended (Purpose)

After section 185E(4), insert:

- (5) **Section 185S** imposes requirements on a person relating to the reporting of information required by—
- (a) the model reporting standard for digital platforms: 5
 - (b) the extended model reporting standard for digital platforms.

179 New heading and section 185S inserted

After section 185R, insert:

Model reporting standards for digital platforms

185S Requirements for reporting platform operators and sellers

- (1) This section applies when a person who is resident in New Zealand carries on a business by way of a digital platform through which a seller of goods or services may operate in New Zealand. 10
- (2) The person who is the platform operator must comply with all the requirements for reporting platform operators set out in the extended model reporting standard for digital platforms in relation to all sellers operating on the digital platform. 15
- (3) Despite **subsection (2)**, the person may choose to apply only the model reporting standard for digital platforms in relation to sellers operating on the digital platform if the sellers— 20
- (a) are resident in New Zealand; and
 - (b) are not resident in a country or territory other than New Zealand.
- (4) The seller operating on the digital platform must comply with all the requirements to provide information under the extended model reporting standard for digital platforms or the model reporting standard for digital platforms, as applicable, to the platform operator. 25
- (5) For the purposes of Part 11B, in the application of the model reporting standard for digital platforms or the extended model reporting standard for digital platforms (the **reporting standard**),— 30
- (a) a term defined in the reporting standard and used in this Act has the meaning that it has at the time in the reporting standard: 30
 - (b) a reference to a jurisdiction in a reporting standard is taken as a reference to New Zealand:
 - (c) the optional provision contained in section 1(A)(3) of the extended model reporting standard for digital platforms relating to excluded platform operators does not apply in New Zealand. 35

180 New section 226F inserted (Application of changes to model reporting standards for digital platforms)

After section 226E, insert:

226F Application of changes to model reporting standards for digital platforms

- (1) The Governor-General may, by Order in Council, make regulations for a change in the model reporting standards for digital platforms providing for— 5
 - (a) the effect of the change on the model reporting standard for digital platforms or extended model reporting standard for digital platforms, as applicable:
 - (b) a period for which an effect applies or does not apply: 10
 - (c) the effect of a change to the model reporting standard for digital platforms or extended model reporting standard for digital platforms, as applicable, on the obligations and liabilities of a person or entity or class of persons or entities.
- (2) A regulation may set out the period for which it is to apply, which must not begin before the latest reportable period that finishes before the regulation is made. If necessary or appropriate, a regulation may also make a change in the model reporting standards for digital platforms that applies during a reportable period. 15
- (3) When a change is made by regulations under this section and is expressed to apply for a reportable period in which the regulation is made as set out in **subsection (2)**, the change applies from the date on which the regulation comes into force. Nothing in this section or in the regulation requires a reporting platform operator to give effect to the change from an earlier date. 20
- (4) A regulation may provide for the change, extension, limitation, suspension, or cancellation of an earlier regulation. 25
- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

181 Schedule 4 amended (Reporting of employment income information)

- (1) In schedule 4, in the section references after the heading, insert “23I”. 30
- (2) In schedule 4, table 1, row 4, replace “or benefit” with “or fringe benefit, benefit referred to in **section RD 5(9B)** of the Income Tax Act 2007, or benefit arising under an employee share scheme”.
- (3) In schedule 4, row (4)(d), replace “a benefit” with “a fringe benefit, benefit referred to in **section RD 5(9B)** of the Income Tax Act 2007, or benefit arising under an employee share scheme”. 35

182 New schedule 6B inserted (Reporting of schedular payment information)

After schedule 6, insert new schedule 6B:

Schedule 6B

Reporting of schedular payment information

s 23R

Table 1—Reporting of schedular payment information

Row	Items
1	The name of the payer
2	The name of the payee
3	The date on which the schedular payment is made
4	Whether the schedular payment is paid during a grace period under section 141GC
5	The contact addresses of the payer and the payee, whether in New Zealand or otherwise
6	The tax file number of the payee, or their foreign tax identification number
7	The gross amount of the schedular payment
8	The amount of tax withheld from the schedular payment
9	Whether an exemption applies in relation to the schedular payment
10	Whether a threshold applies in relation to the schedular payment
11	The start and end dates of the contract under which the schedular payment is made

183 Schedule 7 amended (Disclosure rules)

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- (1) After schedule 7, part A, clause 3, insert:

3B GST registration status

Despite section 18, the Commissioner may supply information to an operator of an electronic marketplace about the registration status of a person under the Goods and Services Tax Act 1985 for the purposes of enabling the operator to determine whether they are required to make a deduction under **section 20(3)(de)** of that Act for a flat-rate credit that is required to be passed on to an underlying supplier of listed services.

10

- (2) Repeal schedule 7, part C, clause 21(2).

- (3) **Subsection (2)** applies for the 2009–10 and later income years.

15

Part 5

Amendments to other enactments

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

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

20

Sections 185 to 191 amend the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022.

185 Section 2 amended (Commencement)

In section 2(3), replace “171(10)” with “171(10), (11), and (39)”.

25

186 Section 5 amended (Section 2 amended (Interpretation))

- (1) In section 5(4)(b), definition of **recipient details**, replace “peculiar” with “relevant”.
- (2) In section 5(4)(e), definition of **supply information**, replace “the date of the supply” with “the date of the invoice, or where no invoice is issued, the time of supply”. 5

187 Section 19 amended (New cross-headings and sections 19E to 19Q inserted)

- (1) In section 19(1), replace new section 19E(1)(d) with:
 - (d) the correction to the taxable supply information, including, if relevant, a correction to the amount of tax charged for the supply. 10
- (2) In section 19(1), in new section 19E(2)(a), replace “has a value that” with “the consideration in money for the supply”.
- (3) In section 19(1), repeal new section 19E(2)(a)(iii).
- (4) In section 19(1), in new section 19E(2)(a)(iv), replace “the date of the supply” with “the date of the invoice, or where no invoice is issued, the time of supply”. 15
- (5) In section 19(1), replace new section 19E(2)(b), with:
 - (b) for a supply that is not referred to in paragraphs (d) to (g) and the consideration in money for the supply exceeds \$200 and does not exceed \$1,000,— 20
 - (i) the name and registration number of the supplier; and
 - (ii) the date of the invoice, or where no invoice is issued, the time of supply; and
 - (iii) a description of the goods or services; and 25
 - (iv) if the amount of tax charged is the tax fraction of the consideration for the supply, the amount of the consideration for the supply and a statement that the amount includes a charge in respect of tax; and
 - (v) if **subparagraph (iv)** does not apply, the total amount of tax charged for the supply, the consideration for the supply excluding the tax, and the consideration for the supply including the tax: 30
- (6) In section 19(1), in new section 19E(2)(c), replace “has a value that” with “the consideration in money for the supply”.
- (7) In section 19(1), replace new section 19E(2)(f) with: 35
 - (f) for a supply referred to in section 19L, which relates to supplies by a member of a GST group or supplier group, the information given by section 19L(1) for a supply made by a member of a GST group, or the

information given by section 19L(2) for a supply made by a member of a supplier group:

(8) In section 19(1), replace new section 19F with:

19F Records of taxable supplies

- (1) A registered person who makes a taxable supply of goods or services, or who receives a taxable supply of goods or services for the purposes of carrying on a taxable activity, must have a record of the taxable supply information and supply correction information for the supply. 5
- (2) Despite **subsection (1)**, a registered person is not required to keep a record of the GST registration number of the supplier if the amount of consideration for the supply is \$200 or less. 10
- (9) In section 19(1), replace new section 19G(2)(b) with:
- (b) the date of the invoice, or where no invoice is issued, the time of supply:
- (10) In section 19(1), repeal new section 19G(2)(e).
- (11) In section 19(1), replace new section 19H(1) with: 15
- (1) This section applies when a registered person—
- (a) purchases a supply of secondhand goods, that is not a taxable supply, for more than \$200; and
- (b) claims an input tax deduction in respect of the supply. 20
- (12) In section 19(1), repeal new section 19H(3).
- (13) In section 19(1), replace new section 19K(1) with:
- (1) A registered person who makes a taxable supply to another registered person must provide the recipient with taxable supply information for the supply within 28 days of a request for the taxable supply information.
- (14) In section 19(1), replace new section 19K(5) with: 25
- (5) A registered person who provides taxable supply information under subsection (4) for a taxable supply must provide the recipient with taxable supply information for the supply within 28 days of the request for the taxable supply information, or by an alternative date agreed by the supplier and recipient.
- (15) In section 19(1), replace new section 19K(10) with: 30
- (10) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that taxable supply information be provided under this section, the Commissioner may determine that, subject to any conditions that the Commissioner may consider necessary,— 35
- (a) any 1 or more of the particulars specified in section 19E(2) shall not be contained in the taxable supply information; or
- (b) taxable supply information is not required to be provided.

(16) In section 19(1), replace new section 19L with:

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

- (1) Taxable supply information for a member supply made by an active member of a GST group under section 55 must include: 5
 - (a) either —
 - (i) the name and registration number of the supplier; or
 - (ii) the name and registration number of the representative member of the GST group; and
 - (b) the other information that would be required if the supplier were not a member of a GST group. 10
- (2) Taxable supply information for a member supply made by a supplying member of a supplier group under section 55B must include:
 - (a) either —
 - (i) the name and registration number of the supplier; or 15
 - (ii) the name and registration number of the issuing member for the supplier group; and
 - (b) the other information that would be required if the supplier were not a member of a supplier group.
- (3) Taxable supply information for a member supply made by an active member of a GST group is treated as being provided by the issuing member for the GST group or by the representative member if the GST group does not have an issuing member. 20
- (4) Taxable supply information for a member supply made by a supplying member of a supplier group is treated as being provided by the issuing member for the supplier group. 25

(17) In section 19(1), replace new section 19N(2) with:

- (2) Where a registered person has provided to a person (the **recipient**) taxable supply information that includes an inaccuracy in the amount of tax charged, or the registered person has taken a tax position for a supply to the recipient in accounting for an incorrect amount of output tax on the supply, and subsections (3), (4), and (7) do not apply, the registered person must provide to the person supply correction information for the supply. 30

188 Section 21 amended (Section 20 amended (Calculation of tax payable))
 Repeal section 21(1). 35

189 Section 40 amended (Section 75 amended (Keeping of records))
 Replace section 40(3) with:

- (3) After section 75(4), insert:
- (4B) A registered person is not required to keep a record of the GST registration number of the supplier if the amount of consideration for the supply is \$200 or less.
- (4) Subsections (1), (2), and (3) apply for taxable periods starting on or after 1 April 2023. 5

190 Section 168 amended (Section RP 17 amended (Tax pooling intermediaries))

In section 168(2), replace “2019–20” with “2017–18”.

191 Section 170 amended (Section RP 19 amended (Transfers from tax pooling accounts)) 10

In section 170(2), replace “2019–20” with “2017–18”.

Amendment to Income Tax Act 2004

192 Amendment to Income Tax Act 2004

- (1) This section amends the Income Tax Act 2004. 15
- (2) Replace section EW 15C(4)(a) with:
- (a) for a financial arrangement accounted for under the fair value method, a movement in fair value—
- (i) through a decline in the credit quality of the arrangement; or
- (ii) through an improvement in the credit quality of the arrangement to the extent to which it offsets earlier movements in fair value described in **subparagraph (i)**: 20

Amendment to Companies Act 1993

193 Amendment to Companies Act 1993

- (1) This section amends the Companies Act 1993. 25
- (2) After schedule 7, clause 1(2)(g), insert:
- (ga) all employer contributions payable to the Commissioner of Inland Revenue under Part 3, subpart 3 of the KiwiSaver Act 2006, including compulsory employer contributions unpaid and specified in a notice under section 141(5) of that Act: 30

Amendment to Insolvency Act 2006

194 Amendment to Insolvency Act 2006

- (1) This section amends the Insolvency Act 2006.
- (2) After section 274(2)(g), insert:

- (ga) all employer contributions payable to the Commissioner of Inland Revenue under Part 3, subpart 3 of the KiwiSaver Act 2006, including compulsory employer contributions unpaid and specified in a notice under section 141(5) of that Act:

Schedule
New schedule inserted into Goods and Services Tax Act 1985

s 137

Schedule
Non-taxable legislative charges

5

ss 5(6ED), 90