

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following Acts:

- Income Tax Act 2007;
- Tax Administration Act 1994;
- Goods and Services Tax Act 1985;
- KiwiSaver Act 2006;
- Child Support Act 1991;
- Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022; and
- Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023.

Broadly, the policy proposals in this Bill fall into three categories. The first category sets the annual rates of income tax for the 2023–24 tax year.

The second category contains proposals aimed at improving current settings within a broad-base, low-rate framework. This framework helps to ensure the tax system is fair and efficient and impedes 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 public confidence in the tax system, which is crucial to encourage 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 contains proposals aimed at improving the settings for tax administration, KiwiSaver and child support rules administered by Inland Revenue.

The main non-budget policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (GTPP), an 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 proposals and their likely impacts. The GTPP increases opportunities for public consultation.

The GTPP means that major tax initiatives that are not budget-sensitive are subject to public scrutiny at all stages of their development. As a result, Inland Revenue and Treasury officials can 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 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/2023/2023-commentary-multinational-tax-bill>.

Setting annual rates of income tax for the 2023–24 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 2023–24 tax year be set at the rates currently specified in schedule 1, part A of the Income Tax Act 2007.

Global Anti-Base Erosion rules for New Zealand

The Bill proposes to introduce the Global Anti-Base Erosion (GloBE) rules in New Zealand. The GloBE rules are a global minimum tax developed by the Inclusive Framework on BEPS (IF), which is led by the Organisation for Economic Co-operation and Development (OECD).

The GloBE rules aim to limit the ‘race to the bottom’ when countries compete to attract mobile income (eg, interest, dividends and royalties) by offering low tax rates and tax incentives. The rules are designed so that multinational enterprises (MNEs) with annual revenues above €750 million are subject to tax of at least 15% on their mobile income in every country where that income is earned.

The GloBE rules are intended to apply to every in-scope MNE in the world, no matter where it has its headquarters, operations or sales. The design of the rules means this

can be achieved even if many, or indeed most, countries do not adopt the rules. The rules require implementation by a critical mass of countries to be effective.

The GloBE rules introduced in this Bill would introduce a multinational top-up tax that consists of an income inclusion rule (IIR) and an undertaxed profits rule (UTPR). Together, they would ensure that, if the GloBE rules are adopted by a critical mass of other countries—

- New Zealand would not lose revenue it is entitled to collect to other countries; and
- administration and compliance costs for in-scope New Zealand MNEs and the government would be reduced.

The effective date of the GloBE rules in New Zealand would be set by Order in Council once the Government determines that a critical mass of countries has adopted the GloBE rules. This would not be earlier than 1 January 2024 for the IIR and 1 January 2025 for the UTPR.

Whether an in-scope MNE has a multinational top-up tax filing and (potentially) payment obligation would be determined by applying the OECD-published Model Rules, Commentary and Agreed Administrative Guidance. The Bill proposes that instead of repeating or translating these texts into New Zealand tax law, they would be incorporated by reference. Modifications to the Model Rules to ensure that they work as intended in New Zealand would be contained in a schedule. This approach to implementing the Model Rules is preferable because it is more efficient. Transposing the Model Rules into New Zealand law would be disproportionately costly and would increase the risk of interpretive errors and mismatches between the GloBE rules as adopted in other countries and as adopted in New Zealand.

Operative rules

The proposed multinational top-up tax rules would require an MNE headquartered in New Zealand to undertake the following steps:

- Determine whether it is in scope for the GloBE rules, ie, if it has an international presence and over €750 million in consolidated revenues in any two of the preceding four years.
- Determine whether any safe harbours apply in each country where it operates.
- Calculate its effective tax rate (ETR) in each country where it operates and where a safe harbour does not apply.
- Calculate its mobile income by calculating its GloBE income (ie, accounting profit subject to GloBE adjustments) in each country and reducing it by the substance-based income exclusion (SBIE). The SBIE is a carve out based on tangible assets and payroll costs in a country.
- Calculate the top-up tax due if its ETR in a country is less than 15%. The top-up tax will bring the ETR on the MNE's mobile income in that country up to 15%.

- Pay multinational top-up tax to Inland Revenue for:
 - New Zealand operations under the domestic income inclusion rule (DIIR), which applies when a New Zealand-headquartered MNE has undertaxed mobile income in New Zealand.
 - Foreign operations under the IIR, which applies when a New Zealand MNE earns the undertaxed income in another country.

MNEs headquartered outside New Zealand could also be subject to multinational top-up tax under the proposals if they have an intermediate parent located in New Zealand or a liability under the UTPR.

Interaction between the GloBE rules and New Zealand tax law

Amendments are also proposed to deal with how New Zealand tax law interacts with the GloBE rules. These amendments propose that imputation credits would not be available for taxes paid under the IIR or UTPR but would be available for taxes paid under the New Zealand DIIR. In addition, foreign tax credits would not be available for taxes paid under an IIR or UTPR to another country.

The GloBE rules contemplate that countries may introduce a DIIR. This would use the same tax base as the GloBE rules but would be imposed on domestic undertaxed mobile income derived by locally headquartered MNEs and intermediate parent entities. The Bill proposes introducing a DIIR in New Zealand as it would ensure that local MNEs only pay top-up tax to Inland Revenue on undertaxed mobile income in New Zealand. This would remove the potential compliance costs of falling within the scope of other countries' UTPRs.

A provision would also be introduced to deal with the interaction between the GloBE rules and double tax agreements. The IF has always intended for both the IIR and UTPR to be compatible with tax treaties based on the OECD Model. Accordingly, the GloBE rules adopted by New Zealand would apply notwithstanding the terms of a tax treaty, unless those terms expressly refer to the GloBE rules.

Administration of the multinational top-up tax rules

Under the multinational top-up tax rules, a New Zealand-headquartered MNE would be required to submit a GloBE Information Return (GIR) to Inland Revenue. The GIR would provide information on the tax calculations made by the group and contain the information a tax administration would need to evaluate the correctness of the MNE's self-assessed tax liability. The due date for the GIR would be 15 months after the end of the income year of the MNE (18 months in the initial reporting year).

The Bill introduces an administrative regime that would deal with the multinational top-up tax rules, including the following:

- A requirement for all in-scope MNEs to register with IR within six months of the end of the first income year in which they are in scope of the multinational top-up tax rules.

- A requirement for all in-scope MNEs to file a separate annual top-up tax return, which would either be nil or the amount of their multinational top-up tax.
- New penalties of up to \$100,000 for failure to submit a complete GIR on a timely basis or to register for GloBE on a timely basis. The size of these penalties would reflect the scale of the taxpayers they apply to.

As the GloBE rules and the country-by-country reporting rules are closely linked, the Bill also proposes a new penalty of up to \$100,000 for failure to submit a complete country-by-country report on a timely basis.

Increasing the trustee tax rate to 39%

The Bill proposes aligning the trustee tax rate with the 39% top personal tax rate from the 2024–25 income year (beginning on 1 April 2024 for most trusts).

Tax paid on trustee income is a final tax. This means that once tax has been paid at the trustee tax rate (which is currently 33%), no further tax is payable when tax-paid trustee income is later distributed to a beneficiary who is on the 39% top personal tax rate. Aligning the trustee and top personal tax rates would therefore help ensure that trusts cannot be used to shelter income from the top personal tax rate.

In addition to increasing the trustee tax rate, special rules are proposed to buttress the 39% rate and help mitigate over-taxation that could arise for certain types of trusts:

- Certain beneficiary income allocations to corporate beneficiaries would be taxed as trustee income to help ensure that trustees cannot circumvent a 39% trustee tax rate by sheltering income in a corporate beneficiary.
- Trustee income of trusts settled for the care of disabled people would be taxed at the personal tax rate of the disabled beneficiary rather than the trustee tax rate.
- Trustees of estates, which are taxed as trusts, would be able to tax income derived within 12 months of the deceased person's date of death at the deceased person's personal tax rates.

ACC and MSD lump sum backdated payments

The Bill proposes to alter the tax treatment of certain types of backdated lump sum payment (BLSP) to address the tax disparity that arises when the timing of the receipt of a BLSP results in a higher tax liability than would arise if the amount had been spread over the periods to which it relates (ie, an amount that should have been paid over multiple years but is paid as a lump sum in a single year).

Generally, payments of employment income are taxed on a cash basis (when they are received). This principle allows tax to be deducted by the payer in the current tax year. This reduces compliance costs and is simple and easy to understand.

While taxing payments on a cash basis tends to be the best option for employment-related payments, this approach can lead to fairness issues when payments that relate to two or more previous tax years are paid in a later tax year. This tax treatment can

push a taxpayer into a higher tax bracket, resulting in a larger tax liability than if they had received the payment at the correct time.

To address this issue, the Bill proposes an alternative tax treatment that would approximate the lower amount of tax that would be owing if the payment had been paid over the relevant earlier years. This alternative tax treatment is proposed for two types of BLSP: backdated ACC payments and backdated MSD entitlements.

For backdated ACC compensation payments that consist of a lump sum and relate to more than one income year, the Bill proposes that the tax rate that would apply would be—

- 10.5% if the recipient's average basic tax rate calculated over the four previous years is less than 10.5%; or
- the recipient's average basic tax rate calculated over the four previous years; or
- the recipient's basic tax rate for the year they receive the payment if that rate is higher than 10.5% and lower than their average basic tax rate for the four previous years.

For backdated MSD benefit payments that consist of a lump sum that relates to more than one income year, the Bill proposes that the tax deducted by MSD would be treated as the final amount of tax owed.

Government payment of three percent KiwiSaver contribution to paid parental leave recipient

The Bill proposes the Government pay a three percent KiwiSaver contribution into the KiwiSaver accounts of paid parental leave (PPL) recipients who pay three percent of their PPL payments into their KiwiSaver accounts. This would take effect from 1 July 2024 and help to increase the retirement savings of people who take time away from work on PPL.

Tax rollover relief in response to recent flooding events

The Bill proposes tax rollover relief for assets destroyed or made economically useless by the January-February North Island flooding events. Similar relief was provided in the case of the Canterbury and Hurunui-Kaikōura earthquakes as part of a series of taxation assistance measures for affected businesses.

Normally, the receipt of insurance proceeds for a destroyed business asset gives rise to either depreciation recovery income or income on the disposal of a revenue account asset. The effect of the proposed rollover relief would be to defer the recognition of this income provided there was a commitment to rebuild or replace the destroyed buildings or plant. This would provide some cash flow benefits for insured businesses severely affected by the floods to assist them in their rebuild or replacement, and it would limit the windfall revenue gain that the Government would otherwise receive from the events.

A maximum five-year rollover/deferral period is proposed from the 2022–23 income year. If the asset has not been rebuilt or replaced by the 2027–28 income year, the

suspended income would be brought to account in that year. If the business decided in an earlier income year to cease business or not to rebuild or replace the asset, the suspended income would be brought to account in that earlier year.

Granting six charities overseas donee status

The Bill proposes six New Zealand charities with overseas charitable purposes be granted overseas donee status and listed in schedule 32 of the Income Tax Act 2007. This status would mostly take effect on 1 April 2024. The Bill also proposes to remove seven charities as they have ceased operations or been wound up. These charities would be removed upon enactment of the Bill.

Extending tax exemption for non-resident offshore oil rig and seismic vessel operators

The Bill proposes extending the existing temporary five-year income tax exemption on the income of non-resident offshore oil rig and seismic vessel operators.

The current exemption, which is due to expire on 31 December 2024, would be extended for a further five years until 31 December 2029. The exemption removes the incentive for rigs and seismic vessels to “churn” (ie, to move in and out of New Zealand waters within 183 days to ensure income is not taxable under many of our double tax agreements), an inefficient process that has negative environmental impacts.

Extending the exemption for a further five years is in keeping with the Government’s previous announcement that existing operators’ rights would be maintained.

Remedial amendments

Several remedial matters are also addressed in the Bill. These include:

- extending automatic resident withholding tax exempt status to all entities registered under the Charities Act 2005;
- extending the definition of a gift-exempt body;
- ensuring that assets transferred to a person that is not a charity registered under the Charities Act 2005 are subject to the deregistration tax;
- excluding technical services fees and interest and royalties connected to a third state permanent establishment from the double tax agreement source rule;
- ensuring the provisional tax calculation works as intended for taxpayers using a year preceding the prior year to calculate their provisional tax liability;
- minor amendments to the portfolio investment entity tax provisions;
- clarifying the rules relating to non-cash dividends received by a custodian from a foreign company;
- treating persons becoming New Zealand residents as acquiring all financial arrangements with a New Zealand source held by them on the date they become a resident;

- changing the way in which the taxation of extra pay is determined;
- allowing the Commissioner of Inland Revenue to share information relating to deceased KiwiSaver members' estates with KiwiSaver providers;
- clarifying that the child support time bar does not apply to temporary exemptions;
- clarifying the meaning of “building” for depreciation purposes;
- amending the main home exclusion in the bright-line test to ignore the period during which a person's main home is constructed;
- changing the relevant period in the 10% income interest test for access to the attributable foreign investment fund income method; and
- amending recently enacted legislation relating to the North Island flooding events to ensure clarity and consistency.

Several minor maintenance items, consisting mainly of correcting minor faults of expression, reader's aids, and incorrect cross-references, are also addressed in the Bill.

Details of further remedial amendments are 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=2023&no=255>

Regulatory impact statements

The Inland Revenue Department produced regulatory impact statements on 25 October 2022, 9 November 2022, 2 March 2023, 3 April 2023, and 26 April 2023 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. *Clauses 45, 66(3) and (5), 68, 69, 70(2), 71(2), 72, and 75* come into force on a date to be set by

Order in Council. The reason for the commencement of these provisions by Order in Council is so that they can be brought into force once a critical mass of other countries has adopted the Global Anti-Base Erosion rules.

Part 1

Annual rates of income tax

Clause 3 sets the annual rates of income tax for the 2023–24 tax year.

Part 2

Amendments to Income Tax Act 2007

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

Clause 5 amends section BC 7(5) to ensure consistency with section HM 36B.

Clause 6 amends section BF 1 to fit multinational top-up tax into the current structure of the ITA.

Clause 7 amends section BH 1 to create an exclusion for multinational top-up tax from the general overriding effect given to double tax agreements.

Clause 8 amends section CB 6A, as a remedial matter, to update terminology.

Clause 9 amends section CB 16A, as it applied from 29 March 2018 to 26 March 2021, to ignore the period in which a main home is constructed when determining whether the main home exclusion from the 5-year bright-line test applies. This amendment applies to a property acquired on or after 29 March 2018 and disposed of before 27 March 2021. The amendment in *clause 20* is related to this amendment and ensures that the construction period is also ignored for a main home that is disposed of on or after 27 March 2021.

Clause 10 amends section CD 44(7) by inserting *new paragraph (dc)*, which includes an amount subject to *new section HC 38(2)* and received by the company in the list of capital gain amounts for the company.

Clause 11 amends section CE 1 to correct cross-references.

Clause 12 amends section CH 8 to correct a cross-reference.

Clause 13 amends section CW 10 by inserting *new subsection (7)*, which provides that the section overrides *new section HC 38*.

Clause 14 amends section CW 16B to correct cross-references.

Clause 15 amends section CW 16C to correct cross-references.

Clause 16 amends section CW 57 to grant a 5-year extension of a tax exemption for non-resident companies involved in certain petroleum exploration and development activities.

Clause 17 inserts a new cross-heading and *new section CX 58B*, which provides that beneficiary income to which *new section HC 38* applies for a close company is exempt income of the close company.

Clause 18 inserts *new section CZ 25C* to allow owners of revenue account property affected by the North Island flooding events to defer (or roll over) income tax liabilities arising from the receipt of insurance payments for irreparably damaged or abandoned buildings.

Clause 19 amends section CZ 29B, which provides tax relief for accommodation expenditure incurred for housing employees assisting with rebuilding areas affected by the North Island flooding events. The amendments are remedial and ensure that section CZ 29B operates as intended.

Clause 20 amends section CZ 40, which sets out the main home exclusion from the 5-year bright-line test. The amendment ensures that the period a main home is constructed is ignored when determining whether the main home exclusion applies.

Clause 21 amends section DB 1 to deny a deduction for taxes imposed in other jurisdictions that are substantially the same as multinational top-up tax.

Clause 22 inserts *new section DZ 20B* to allow a deduction for certain expenditure incurred while the taxpayer's income-earning activity is interrupted because of a North Island flooding event.

Clause 23 amends section EW 37 to create a deemed acquisition of a New Zealand-sourced financial arrangement with an accrued obligation when a person becomes a transitional resident.

Clause 24 amends section EW 41 to create a deemed acquisition of a New Zealand-sourced financial arrangement with an accrued entitlement when a person becomes a transitional resident.

Clause 25 amends section EX 46 to ensure that the 10% income test for determining whether a person may use the attributable FIF income method applies to the portion of the accounting period where the person has ownership in the FIF, rather than the entire accounting period.

Clause 26 inserts *new section EZ 23BE* to allow depreciation rollover relief for depreciable property irreparably damaged by the North Island flooding events.

Clause 27 inserts a new cross-heading and *new sections EZ 83 to EZ 87*. *New section EZ 83* provides for the deemed disposal and reacquisition of depreciable assets damaged by a North Island flooding event when they are uneconomic to repair, so they are also eligible for taxation rollover relief. *New section EZ 84* applies to depreciable assets that have been damaged by a North Island flooding event but are repairable, and limits depreciation recovery income to the amount of depreciation deductions previously taken. *New section EZ 85* treats an item as available for use for depreciation purposes if access to the item is affected by a restriction imposed due to the effects of a North Island flooding event. *New section EZ 86* provides an optional timing rule for income and deductions when an asset has been irreparably damaged or is uneconomic to repair as a result of a North Island flooding event and the person is entitled to insurance compensation. *New section EZ 87* provides an optional timing rule for income and deductions where a person has repaired an item damaged by a North Island flooding event and that person is entitled to insurance compensation.

Clause 28 amends section FC 2 to correct a cross-reference.

Clause 29 amends section FC 9B, as a remedial matter, to update terminology.

Clause 30 inserts a new cross-heading and *new section FZ 7B*. *New section FZ 7B* provides an optional adjustment to how group assets are measured for the purposes of the thin-capitalisation rules to mitigate a potential timing issue that could arise through assets being destroyed by a North Island flooding event.

Clause 31 replaces section HC 4(3). The replacement subsection clarifies the situation in which a property settlement on a trust by the trustee of another trust is excluded from the corpus of the trust receiving the property settlement. The exclusion applies if a beneficiary of the trust making the settlement is a New Zealand resident and received the settled property before the settlement was made, or could have done so.

Clause 32 amends section HC 7 by inserting *new subsection (2B)*, which provides that beneficiary income to which *new section HC 38* applies for a close company is treated as if it were trustee income so that the trustee is responsible for determining the applicable tax rate, paying the tax, and making the necessary returns of income.

Clause 33 inserts *new section HC 8B*, which allows the trustee of a deceased estate who receives trustee income within 12 months of the passing of the deceased to choose the income tax treatment provided in the section for the trustee income. The amount of trustee income is combined with the amount of income derived by the deceased in the same income year and the total income tax on the combined amount is calculated as it would have been for the deceased. The amount of income tax for which the deceased is liable for the period is allowed for and the trustee is responsible for the unpaid amount.

Clause 34 repeals section HC 13 as the definition of *charitable trust* has been replaced with *tax charity*.

Clause 35 inserts *new section HC 17(3)*, which excludes beneficiary income subject to *new section HC 38* for a close company from the usual treatment under the section. Cross-references are made to the effects of *new section CX 58B*, which treats the beneficiary income as excluded income of the company, and *new section HC 38*, which provides that it is treated as trustee income.

Clause 36 inserts *new section HC 24(3B)*, which provides that beneficiary income subject to *new section HC 38* for a close company is treated as trustee income for the purposes of trustee responsibilities under section HC 24.

Clause 37 makes consequential amendments to section HC 29 because of the repeal of the *charitable trust* definition.

Clause 38 makes consequential amendments to section HC 31 because of the repeal of the *charitable trust* definition.

Clause 39 inserts *new sections HC 38 and HC 39*. *New section HC 38* applies when a close company, other than a Maori authority or tax charity, derives beneficiary income from a trust and a settlor of the trust has natural love and affection for a person who holds an interest in the close company. The beneficiary income is excluded

income of the close company under *new section CX 58B*. It is treated as trustee income for the trust for the purposes of determining the applicable rate of tax, paying the tax, and providing the relevant returns of income. *New section HC 39* applies when the trustee of a disabled beneficiary trust derives taxable income in an income year. *Subsection (2)* gives a formula for the applicable basic rate of income tax for the trustee on each dollar of trustee income derived in the income year. A definition of *disabled beneficiary trust* is provided in *subsection (4)* and a definition of *disabled beneficiary* is provided in *subsection (5)*.

Clause 40 makes consequential amendments to section HD 12 because of the repeal of the *charitable trust* definition.

Clause 41 amends section HF 1 to correct a cross-reference.

Clause 42 amends section HG 4 to correct punctuation.

Clause 43 makes minor amendments to section HM 60 to reflect the relationship between sections CX 56 and HM 60.

Clause 44 inserts a *new subpart HP*, which relates to the taxation of members of certain multinational groups. *New section HP 1* establishes the liability to pay multinational top-up tax. *New section HP 2* specifies the payment date for multinational top-up tax. *New section HP 3* provides for the application of the global anti-base erosion model rules (the **model rules**). *Subsection (2)* provides for the modification of the model rules in the ways specified by the items in *new schedule 25B* of the Act. *Subsection (3)* provides for the model rules to be applied (i) as modified by *subsection (2)*, and (ii) in accordance with the most recently published commentary to, and guidance on, the model rules. *New section HP 4* is an empowering provision, which enables various components of the applied global anti-base erosion model rules to be implemented in New Zealand on a date declared by Order in Council. *New section HP 5* provides that, in the application of *new subpart HP* and the model rules, terms defined in the model rules and used in the Inland Revenue Acts have the meaning given by the model rules.

Clause 45 amends *new section HP 5* to add references to *new sections 78H to 78J and 92BA* of the Tax Administration Act 1994.

Clause 46 amends section HR 12 to ensure that when a charity is deregistered and does not re-register within one year, certain net assets will be taxed if they are not disposed of or transferred to another registered charity.

Clause 47 inserts *new section LE 4B*, which applies when the trustee of a trust has a tax credit and distributes to a close company beneficiary income to which *new section HC 38* applies. The trustee may apply the tax credit in satisfaction of a tax liability arising for the company from the beneficiary income.

Clause 48 replaces section LJ 3 to ensure that, for the purposes of Part L, the definition of *foreign income tax* does not include an amount of a tax of substantially the same nature as multinational top-up tax.

Clause 49 amends section MB 7 to replace an item in a formula with something that is not a defined term.

Clause 50 amends section MK 2 to remove a term that does not appear in that section from its list of defined terms.

Clause 51 inserts *new section OB 7BB* to give an imputation credit account company an imputation credit for an amount of multinational top-up tax paid to the extent to which it was payable under the domestic income inclusion rule.

Clause 52 amends table O1 to add a row for the imputation credit described in *new section OB 7BB*.

Clause 53 inserts *new section OP 11BA* to give a consolidated imputation group an imputation credit for an amount of multinational top-up tax paid to the extent to which it was payable under the domestic income inclusion rule.

Clause 54 amends table O19 to add a row for the imputation credit described in *new section OP 11BA*.

Clause 55 makes a minor technical change to section RC 6 to ensure it operates as intended.

Clause 56 amends section RD 17 to provide a new method to calculate the applicable tax rate for extra pays.

Clause 57 inserts *new sections RD 20B and RD 20C*. *New section RD 20B* provides for the taxation of a lump sum payment of accident compensation relating to more than 1 income year. The payment is taxed at the lesser of the recipient's basic tax rate for the income year in which the lump sum is paid and the recipient's average basic tax rate for the 4 preceding income years, with a minimum rate of 10.5%. Similarly, *new section RD 20C* provides for the taxation of a lump sum payment of a main benefit under the Social Security Act 2018 relating to more than 1 income year. The payment is taxed at a rate that depends on the amount withheld from the payment and remitted to the Commissioner of Inland Revenue (the **Commissioner**) and the amount of the payment received by the beneficiary.

Clause 58 makes minor technical changes to section RE 14C to ensure it operates correctly in the context of custodians.

Clause 59 amends section YA 1. *Subclause (2)* amends the definition of *accommodation* to update cross-references. *Subclause (3)* inserts a new definition of *affected area*, which is used for the amendments relating to the North Island flooding events. *Subclause (4)* amends the definition of *ancillary tax* to make multinational top-up tax an ancillary tax. *Subclause (5)* inserts a new definition of *applied global anti-base erosion rules*. *Subclause (6)* inserts a new definition of *building* to avoid doubt around unit titled buildings for depreciation. *Subclause (7)* repeals the definition of *charitable trust*. *Subclause (8)* amends the definition of *council-controlled organisation* to remove a redundant reference. *Subclause (9)* inserts a reference to the new definition of *disabled beneficiary* given in *new section HC 39(5)*. *Subclause (10)* inserts a reference to the new definition of *disabled beneficiary trust* given in *new section HC 39(4)*. *Subclause (11)* inserts a new definition of *global anti-base erosion model rules*. *Subclause (12)* inserts a new definition of *multinational top-up tax*. *Subclause (13)* amends the definition of *North Island flooding events* to include further

affected areas and circumstances where damage is exacerbated by a subsequent event. *Subclause (14)* amends the definition of *residential land* to correct punctuation. *Subclause (15)* adds 2 new paragraphs to the definition of *schedular income*. *New paragraph (l)* includes income under *new section RD 20B*, which relates to lump sum payments of accident compensation, in schedular income. *New paragraph (m)* includes income under *new section RD 20C*, which relates to lump sum payments of main benefits, in schedular income. *Subclause (16)* amends the definition of *trust rules*. *Paragraph (a)* inserts in paragraph (ab) of the definition a cross-reference to *new section CX 58B*. *Paragraph (b)* amends paragraph (g) of the definition by correcting a cross-reference to include *new section LE 4B*.

Clause 60 makes consequential amendments to section YB 8 because of the repeal of the definition of *charitable trust*.

Clause 61 amends section YD 4, which deems certain types of income to have a source in New Zealand. The amendment ensures that technical services fees and royalties or interest payments connected to a permanent establishment outside New Zealand are not deemed to have a source in New Zealand.

Clause 62 amends schedule 1, part A. *Subclause (1)* amends clause 3 in the schedule by: (a) inserting cross-references to the *new clauses 6B and 6C* inserted by *subclause (2)*; and (b) by changing the usual basic tax rate for a trustee from 0.33 to a new basic tax rate of 0.39. *Subclause (2)* inserts *new clause 6B*, which refers to the basic tax rate given by *new section HC 39(2)*, and *new clause 6C*, which refers to the basic tax rate given by *new section HC 8B*. *Subclause (3)* adds *new clause 13*, which refers to the basic tax rate given by *new section RD 20B* for lump sum payments of accident compensation, and *new clause 14*, which refers to the basic tax rate given by *new section RD 20C* for lump sum payments of a main benefit.

Clause 63 inserts *new schedule 25B*, which sets out modifications to the global anti-base erosion model rules.

Clause 64 amends schedule 32, which lists overseas-based charities to which a donation entitles the donor to a deduction.

Part 3

Amendments to Tax Administration Act 1994

Clause 65 provides that *Part 3* amends the Tax Administration Act 1994 (the TAA).

Clause 66 amends section 3(1). *Subclauses (2) and (3)* amend the definition of *civil penalty* to incorporate penalties under *new sections 139AAB and 139ABB*. *Subclause (4)* amends the definition of *gift-exempt body* to include all charities registered under the Charities Act 2005 and all persons eligible to apply for RWT-exempt status under section 32E(2)(k) or (l) of the TAA. *Subclause (5)* inserts a new definition of *multinational top-up tax return*.

Clause 67 amends section 32E to correct nomenclature.

Clause 68 amends section 78G, which imposes an obligation on large multinational groups to provide country-by-country reports to the Commissioner, to require those reports to be provided in the electronic format prescribed by the Commissioner.

Clause 69 inserts *new sections 78H to 78J*. *New section 78H* requires New Zealand-based members of multinational groups to which the global anti-base erosion model rules apply to register their multinational group with the Commissioner. *New section 78I* imposes an annual pre-assessment information reporting obligation on New Zealand-based members of multinational groups to which the global anti-base erosion model rules apply. *New section 78J* requires New Zealand-based members of multinational groups to which the global anti-base erosion model rules apply to provide an annual multinational top-up tax return to the Commissioner.

Clause 70 amends section 79, which requires the filing of annual returns prescribed by the Commissioner in addition to those required under another section of the Act. *Subclause (1)* adds a missing cross-reference. *Subclause (2)* adds a reference to the return required under *new section 78J*.

Clause 71 amends section 80, which imposes an obligation to file returns required by the Commissioner in addition to those required under another section of the Act. *Subclause (1)* adds a missing cross-reference. *Subclause (2)* adds a reference to the return required under *new section 78J*.

Clause 72 inserts *new section 92BA*, which requires taxpayers who are required to provide a multinational top-up tax return to self-assess their multinational top-up tax liability.

Clause 73 amends section 120KBB to remove an example that is no longer correct.

Clause 74 inserts *new section 139AAB*, which establishes a civil penalty for large multinational groups that fail to meet country-by-country reporting requirements.

Clause 75 inserts *new section 139ABB*, which provides for civil penalties for taxpayers who do not apply for registration as required under *new section 78H* or who do not comply with the requirements of *new section 78I or 78J*.

Clause 76 amends section 141B, which provides for a shortfall penalty for taxpayers who take an unacceptable tax position, to bring multinational top-up tax within the penalty's scope.

Clause 77 inserts *new section 226G*, which empowers the making of regulations providing for the non-application of changes to commentary or guidance relating to the global anti-base erosion model rules.

Part 4

Amendments to other enactments and revocations

Amendments to Goods and Services Tax Act 1985

Clause 78 sets out the clauses that amend the Goods and Services Tax Act 1985.

Clause 79 amends section 10 to remove an incorrect cross-reference.

Clause 80 amends section 11A to remove an incorrect cross-reference.

Clause 81 amends section 19N to include the correct cross-reference.

Clause 82 amends section 20 to correct a cross-reference.

Clause 83 amends section 25 to update nomenclature.

Amendments to KiwiSaver Act 2006

Clause 84 sets out the clauses that amend the KiwiSaver Act 2006.

Clause 85 amends the definition of *salary or wages* in section 4(1) to ensure that the Crown is an employer in respect of paid parental leave, and therefore liable for compulsory employer contributions.

Clause 86 amends section 220B to allow information sharing in relation to deceased KiwiSaver members.

Amendments to Child Support Act 1991

Clause 87 sets out the clauses that amend the Child Support Act 1991.

Clause 88 amends section 87A, which sets a time bar of 4 years for amendment of certain assessments. It replaces subsection (2)(c) to provide an exception from the time bar of 4 years for an assessment for a period during which the liable person received a temporary exemption from paying child support, for example, because they were suffering from a long-term illness and unable to work.

Clause 89 amends Schedule 1, which contains application, transitional, and savings provisions, to insert a *new Part 7* relating to the amendment made by this Bill.

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

Clause 90 amends section 227 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 to correct a cross-reference in an application provision.

Amendment to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023

Clause 91 amends section 152 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 to remove an incorrect cross-reference.

Revocations

Clause 92 revokes 4 spent orders.

Hon David Parker

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023**.

2 Commencement

5

- (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) **Sections 12, 23, 24, 41, 42, 50, and 55** come into force on 1 April 2008.
- (3) **Section 25** comes into force on 1 July 2011.
- (4) **Section 58** comes into force on 1 April 2017.
- (5) **Section 9** comes into force on 29 March 2018.
- (6) **Section 61** comes into force on 1 July 2018.
- (7) **Sections 59(6) and 67** come into force on 1 April 2020.

10

- (8) **Sections 70(1) and (3) and 71(1) and (3)** come into force on 7 December 2020.
- (9) **Sections 8, 20, and 59(14) and (18)** come into force on 27 March 2021.
- (10) **Section 88** comes into force on 26 October 2021.
- (11) **Sections 73, 83(1), and 90** come into force on 30 March 2022. 5
- (12) **Sections 18, 22, 26, 27, 29, and 30** come into force on 1 April 2022.
- (13) **Sections 11, 14, 15, 19, and 59(2), (3), and (13)** come into force on 8 January 2023.
- (14) **Sections 64(2), 81, 82, and 83(2)** come into force on 1 April 2023.
- (15) **Section 46** comes into force on the date of introduction of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill. 10
- (16) **Section 91** comes into force on 31 March 2024.
- (17) **Sections 10, 13, 17, 31, 32, 33, 35, 36, 39, 47, 56, 57, 59(9), (10), (15), (16), (17), and (19), 62, and 86** come into force on 1 April 2024.
- (18) **Section 85** comes into force on 1 July 2024. 15
- (19) **Section 16** comes into force on 1 January 2025.
- (20) **Section 76** comes into force on 1 January 2027.
- (21) **Section 64(4)** comes into force on 1 April 2028
- (22) **Sections 45, 66(3) and (5), 68, 69, 70(2), 71(2), 72, and 75** come into force on a single date set by Order in Council. 20
- (23) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1

Annual rates of income tax

- 3 Annual rates of income tax for 2023–24 tax year** 25
- Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2023–24 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2

Amendments to Income Tax Act 2007

- 4 Amendments to Income Tax Act 2007** 30
- This Part amends the Income Tax Act 2007.

- 5 Section BC 7 amended (Income tax liability of person with schedular income)**
- In section BC 7(5), replace “of a natural person investor” with “of a natural person who is resident in New Zealand and is an investor”
- 6 Section BF 1 amended (Other obligations)** 5
- (1) After section BF 1(b), insert:
(bb) multinational top-up tax under Part H:
- (2) In section BF 1, list of defined terms, insert “multinational top-up tax”.
- 7 Section BH 1 amended (Double tax agreements)**
- (1) Replace section BH 1(4) with: 10
- Overriding effect*
- (4) Despite anything in this Act, except the provisions listed in **subsection (4B)**, or in any other Inland Revenue Act or the Official Information Act 1982 or the Privacy Act 2020, a double tax agreement has effect in relation to— 15
- (a) income tax:
- (b) any other tax imposed by this Act:
- (c) the exchange of information that relates to a tax, as defined in paragraph (a)(i) to (v) of the definition of **tax** in section 3(1) of the Tax Administration Act 1994.
- Provisions* 20
- (4B) The provisions of this Act referred to in **subsection (4)** are—
- (a) **subsection (4C)**:
- (b) subsection (5):
- (c) subsection (5B):
- (d) section BG 1 (Tax avoidance): 25
- (e) section GB 54 (Arrangements involving establishments):
- (f) section RF 11C (Interest paid by non-resident companies to non-residents).
- Exclusion: multinational top-up tax*
- (4C) A double tax agreement does not have effect in relation to multinational top-up tax, unless the double tax agreement expressly provides otherwise. 30
- (2) In section BH 1, list of defined terms, insert “multinational top-up tax”.
- 8 Section CB 6A amended (Disposal within 10 years: Bright-line test for residential land)**
- In section CB 6A(7), delete “original”. 35

- 9 Section CB 16A amended (Main home exclusion for disposal within 10 years)**
- (1) After section CB 16A(1), insert:
Modified rule for constructing main home
- (1B) For the purposes of determining under subsection (1) whether residential land has been used for most of the bright-line period as a main home, the period in which the dwelling is constructed is ignored. 5
- (2) **Subsection (1)** applies to a person’s disposal of residential land if the person acquires an estate or interest in the land on or after 29 March 2018 and disposes of it before 27 March 2021. 10
- 10 Section CD 44 amended (Available capital distribution amount)**
- (1) After section CD 44(7)(db), insert:
(dc) an amount is derived by the company that is subject to **section HC 38(2)** (Beneficiary income of certain close companies); or
- (2) **Subsection (1)** applies for the 2024–25 and later income years. 15
- 11 Section CE 1 amended (Amounts derived in connection with employment)**
- (1) In section CE 1(2), words before the paragraphs, replace “CZ 29, and CZ 30” with “CZ 23B, and CZ 29 to CZ 30”.
- (2) In section CE 1(3)(a), replace “in sections CE 1B, and CW 16B to CW 16F, CZ 29, and CZ 30 (which relate to accommodation provided in connection with employment)” with “and in sections CE 1B, CW 16B to CW 16F, CZ 23B, and CZ 29 to CZ 30 (which relate to accommodation provided in connection with employment),”. 20
- (3) In section CE 1(3)(b), replace “sections CW 16B to CW 16F, CZ 29, and CZ 30” with “sections CW 16B to CW 16F, CZ 23B, and CZ 29 to CZ 30”. 25
- 12 Section CH 8 amended (Market value substituted)**
- (1) In section CH 8(1), replace “section GB 7 (Arrangements involving CFC control interests)” with “section GC 8 (Insufficient amount receivable by person)”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 13 Section CW 10 amended (Dividend within New Zealand wholly-owned group)** 30
- (1) After section CW 10(6), insert:
Relationship with other provisions
- (7) This section overrides section HC 38 (Beneficiary income of certain close companies). 35
- (2) **Subsection (1)** applies for the 2024–25 and later income years.

14	Section CW 16B amended (Accommodation expenditure: out-of-town secondments and projects)	
	In section CW 16B(5), replace “CZ 29, and CZ 30” with “and CZ 29 to CZ 30”.	
15	Section CW 16C amended (Time periods for certain accommodation expenditure)	5
	In section CW 16C(6), replace “or CZ 29 (Accommodation expenditure: Canterbury earthquake relief)” with “, CZ 29 (Accommodation expenditure: Canterbury earthquake relief), or CZ 29B (Accommodation expenditure: North Island flooding events)”.	10
16	Section CW 57 amended (Non-resident company involved in exploration and development activities)	
	(1) In section CW 57(1)(a), replace “2020” with “2025”.	
	(2) In section CW 57(1)(b), replace “2024” with “2029”.	
17	New cross-heading and section CX 58B inserted	15
	(1) After section CX 58, insert:	
	<i>Certain amounts from trusts</i>	
	CX 58B Amounts derived by certain close companies from trusts	
	To the extent to which section HC 38 (Beneficiary income of certain close companies) applies to an amount of beneficiary income of a close company, the amount is excluded income of the close company.	20
	Defined in this Act: amount, beneficiary income, close company, excluded income	
	(2) Subsection (1) applies for the 2024–25 and later income years.	
18	New section CZ 25C inserted (Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation)	25
	(1) After section CZ 25B, insert:	
	CZ 25C Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation	
	<i>When this section applies</i>	30
	(1) This section applies for a person and an income year (the current year) before the 2028–29 income year when the person,—	
	(a) in or before the current year, derives for buildings or land (the affected property), all of which is revenue account property under section CB 6, CB 7, CB 12 or CB 13 (which relate to income from certain disposals of land), insurance or compensation, if a North Island flooding event dam-	35

ages the land or the building, or the neighbourhood of the building, causing the building to be useless for the purpose of deriving income and consequently to be demolished or abandoned for later demolition; and

- (b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) from the compensation or insurance for the affected property that exceeds the total amount of deductions under section DB 23 (Cost of revenue account property) for the affected property; and 5
- (c) plans, in the current year, to acquire property (the **replacement property**)— 10
 - (i) replacing affected property; and
 - (ii) meeting the requirements of **subsection (4)**; and
 - (iii) having a cost exceeding the total amount of deductions under section DB 23 for the affected property; and 15
- (d) notifies the Commissioner under **subsection (6)** in relation to the affected property.

Suspended recovery income

- (2) The amount (the **excess recovery**) by which the insurance income referred to in **subsection (1)(b)** exceeds the deductions referred to in **subsection (1)(b)** is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under **subsection (3)** that is attributed to an income year by **subsection (5)**. 20

Effect of purchase of replacement property

- (3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,— 25
 - (a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person’s expenditure on the replacement property is reduced by—
 - (i) the amount calculated by dividing the replacement cost by the total amount of deductions under section DB 23 for the affected property and multiplying the result by the excess of the insurance income over the replacement cost, if the insurance income exceeds the replacement cost and the calculated amount is less than or equal to the amount of insurance income; or 30
 - (ii) the amount of the excess recovery, if the insurance income does not exceed the replacement cost or is less than the amount calculated in **subparagraph (i)**; and 35

- (b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under **paragraph (a)** for the purposes of section EA 2.
- Requirements for replacement property*
- (4) For an item of affected property, replacement property must be a building or land that is revenue account property— 5
- (a) acquired in or before the person’s 2027–28 income year; and
- (b) located in New Zealand.
- Amount remaining at end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt* 10
- (5) The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—
- (a) the current year ends, if the current year is the 2027–28 income year:
- (b) in the current year, the person decides not to replace the affected property: 15
- (c) in the current year, the person goes into liquidation or becomes bankrupt.
- Notice of election for affected property*
- (6) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must notify the Commissioner— 20
- (a) by the later of 31 January 2024 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and
- (b) if the current year is after the estimate year,— 25
- (i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
- (ii) for the current year, by the date on which the return of income is filed for the current year. 30
- Later deadline for notice of election*
- (7) The Commissioner may allow the person to file the notice under **subsection (6)** at a later time, if the Commissioner considers there are exceptional circumstances. 35
- Contents of notice of election*
- (8) A notice under **subsection (6)** must—
- (a) describe the affected property; and

- (b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and
- (c) give the cost of the replacement property and the reduction under **subsection (3)** of that cost for the purposes of section EA 2; and
- (d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year. 5
- Relationship to section CG 6*
- (9) This section overrides section CG 6. 10
Defined in this Act: acquire, amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income, revenue account property
- (2) **Subsection (1)** applies for the 2022–23 and later income years.
- 19 Section CZ 29B amended (Accommodation expenditure: North Island flooding events)** 15
- (1) In section CZ 29B(3), replace “6 months” with “5 years”.
- (2) After section CZ 29B(3), insert:
- How time limit determined*
- (3B) For the purposes of this section and section CW 16C, the time limit is determined by whether the actual period of continuous work of the employee at the distant workplace is for a period of no more than 5 years. 20
- (3) In section CZ 29B(4), words before the paragraphs, replace “The time limit” with “Any time limit”.
- (4) In section CZ 29B(4)(b), replace “the time limit” with “the expiry of the relevant time limit”. 25
- (5) In section CZ 29B, list of defined terms, insert “period of continuous work” and “project of limited duration”.
- 20 Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)** 30
- After section CZ 40(2), insert:
- Modified rule for constructing main home*
- (2B) For the purposes of determining under subsection (2) whether residential land has been used for most of the bright-line period as a bright-line grandparented home, the period in which the dwelling is constructed is ignored.
- 21 Section DB 1 amended (Taxes, other than GST, and penalties)** 35
- (1) After section DB 1(1)(c), insert:

- (cb) a tax imposed in a country or territory outside New Zealand that is substantially the same as multinational top-up tax, ignoring **section HP 1(2)** (Liability for multinational top-up tax):
- (2) In section DB 1, list of defined terms, insert “multinational top-up tax”.
- 22 New section DZ 20B inserted (Expenditure incurred while income-earning activity interrupted by North Island flooding event)** 5
- (1) After section DZ 20, insert:
- DZ 20B Expenditure incurred while income-earning activity interrupted by North Island flooding event**
- When this section applies* 10
- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when—
- (a) the person has an income-earning activity in New Zealand immediately before a North Island flooding event; and
- (b) the activity is interrupted for a period (the **period of interruption**) as a result of the North Island flooding event; and 15
- (c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and
- (d) the interruption expenditure does not meet the requirements of the general permission for the person and the income-earning activity but would do so but for the interruption; and 20
- (e) the person resumes the income-earning activity in an income year (the **resumption year**) before the 2028–29 income year.
- Deduction for interruption expenditure* 25
- (2) The person is allowed a deduction for the interruption expenditure.
- Timing of deduction*
- (3) The deduction is allocated to the resumption year.
- Link with subpart DA*
- (4) This section supplements the general permission. The general limitations still apply. 30
- Defined in this Act: deduction, general limitation, general permission, income year, New Zealand, North Island flooding events, loss, supplement
- (2) **Subsection (1)** applies for the 2022–23 and later income years.
- 23 Section EW 37 amended (Consideration when person enters rules: accrued obligation)** 35
- (1) After section EW 37(1)(a), insert:

- (ab) the person is a non-resident who—
- (i) becomes a party to the arrangement after 1 April 2008; and
 - (ii) becomes a transitional resident after becoming a party to the arrangement; and
 - (iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules: 5
- (2) In section EW 37, list of defined terms, insert “financial arrangements rules”.
- (3) **Subsection (1)** applies to a person and a financial arrangement if the person is not required to complete a base price adjustment for the financial arrangement before the date on which the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** receives the Royal assent. 10
- 24 Section EW 41 amended (Consideration when person enters rules: accrued entitlement)**
- (1) After section EW 41(1)(a), insert: 15
- (ab) the person is a non-resident who—
- (i) becomes a party to the arrangement after 1 April 2008; and
 - (ii) becomes a transitional resident after becoming a party to the arrangement; and
 - (iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules: 20
- (2) In section EW 41, list of defined terms, insert “financial arrangements rules”.
- (3) **Subsection (1)** applies to a person and a financial arrangement if the person is not required to complete a base price adjustment for the financial arrangement before the date on which the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** receives the Royal assent. 25
- 25 Section EX 46 amended (Limits on choice of calculation methods)**
- In section EX 46(3)(a), words before the subparagraphs, after “period”, insert “during which the person has rights in the FIF”. 30
- 26 New section EZ 23BE inserted (Property acquired after depreciable property affected by North Island flooding events)**
- (1) After section EZ 23BD, insert:

EZ 23BE Property acquired after depreciable property affected by North Island flooding events*When this section applies*

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,— 5
- (a) in or before the current year, receives insurance or compensation (the **flood compensation**) for items of depreciable property (the **affected property**), each of which is—
- (i) not depreciable intangible property; and
- (ii) included in 1 of the categories (an **affected class**) of the person’s depreciable property referred to in **subsection (12)(b)**; and 10
- (b) is entitled to the flood compensation because each item of the affected property, as a result of a North Island flooding event, is affected by—
- (i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or 15
- (ii) a disposal and reacquisition under **section EZ 83**; and
- (c) would have, in the absence of this section, from the flood compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and 20
- (d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in **paragraph (c)** by an amount (the **excess recovery**); and
- (e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of **subsection (8)**; and 25
- (f) notifies the Commissioner under **subsection (10)**—
- (i) specifying the affected property and affected class; and
- (ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class. 30

Suspended recovery income

- (2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after—
- (a) adjustment under **subsections (4) and (7)** for an earlier income year; and 35
- (b) attribution to an earlier income year by **subsection (9)**.

Depreciation recovery income

- (3) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by **subsection (9)**.

Effect of acquiring item of replacement property if suspended recovery income from affected property not in pool 5

- (4) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person does not use the pool method, the amount given by **subsection (5)**— 10

(a) is treated as not being included in the amount of the person’s expenditure on the replacement item for the purposes of determining,—

(i) under section EE 16(4) (Amount resulting from standard calculation), the item value or cost for the replacement item, if the person uses the diminishing value method or straight-line method for the replacement item; or 15

(ii) under section EE 22 (Cases affecting pool), the cost of the replacement item, if the person uses the pool method for the replacement item; and

(b) is a reduction in the amount of the suspended recovery income for the affected class. 20

Amount of reduction: expenditure on replacement item and suspended recovery income

- (5) The amount of the reduction under **subsection (4)(a) or (b)** for a replacement item and an affected class of affected property for which the person does not use the pool method is— 25

(a) zero, if the cost of the affected class equals or is less than the person’s total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class; or

(b) the amount calculated using the formula— 30

$$\text{limited replacement cost} \times \text{excess} \div \text{affected cost.}$$

Definition of items in formula

- (6) In the formula,—

(a) **limited replacement cost** is the lesser of—

(i) the amount by which the cost of the affected class exceeds the total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class: 35

(ii) the amount of the expenditure on the replacement item:

(b) **excess** is the excess recovery for the affected class:

- (c) **affected cost** is the total cost for the person of the affected class.
Effect of acquiring item of replacement property if suspended recovery income from affected property in pool
- (7) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person uses the pool method,— 5
- (a) the amount of the person’s expenditure on the replacement item is treated as being reduced by the amount equal to the lesser of the amount of expenditure on the replacement item and the amount of suspended recovery income for the affected property after the acquisition of other replacement property before the replacement item for the purposes of determining— 10
- (i) the adjusted tax value of the replacement item, if **subparagraph (ii) or (iii)** does not apply; or
- (ii) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or 15
- (iii) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item; and
- (b) the amount of the suspended recovery income for the affected class is reduced by the amount of the treated reduction under **paragraph (a)**. 20
- Requirements for replacement property*
- (8) An item of replacement property for a person must—
- (a) be included in the same category under **subsection (12)(b)** as the affected class with which the person links the item if the affected class is described in **subsection (12)(b)(i), (ii), (v), or (vi)**; and 25
- (b) be located in New Zealand, if the item is a building or commercial fit-out.
- Attribution of suspended recovery income to income year: other events*
- (9) The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class— 30
- (a) at the end of the current year, if that year is the 2027–28 income year and neither of **paragraph (b) and (c)** apply earlier; or
- (b) when in the current year the person decides not to acquire more replacement property, if neither of **paragraph (a) and (c)** apply earlier; or 35
- (c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of **paragraph (a) and (b)** apply earlier.

Notice of election for affected property

- (10) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must notify the Commissioner,—
- (a) for the earliest income year (the **estimate year**) in which the amount of the insurance or compensation for the affected property can be reasonably estimated, by the later of 31 January 2024 and the date on which the return of income is filed for the estimate year; and 5
 - (b) if the current year is after the estimate year,—
 - (i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and 10
 - (ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

- (11) The Commissioner may allow the person to file the notice under **subsection (10)** at a later time if the Commissioner considers there are exceptional circumstances. 15

Contents of notice of election

- (12) A notice under **subsection (10)** must— 20
- (a) describe the items of affected property; and
 - (b) indicate in which of the following categories each item of affected property is included:
 - (i) a building not referred to in **subparagraph (iii)**;
 - (ii) commercial fit-out not referred to in **subparagraph (iv)**; 25
 - (iii) buildings for which the person uses the pool method;
 - (iv) commercial fit-out for which the person uses the pool method;
 - (v) depreciable property for which the person uses the pool method, other than a building or commercial fit-out;
 - (vi) depreciable property not referred to in **subparagraphs (i) to (v)**; 30
and
 - (c) give details of each item of replacement property acquired in the current year and the affected class to which the person is linking the item; and
 - (d) give the amount of the expenditure on the replacement item and the reduction under **subsection (4) or (7)** of that expenditure for the purposes of determining adjusted tax value or depreciation loss; and 35
 - (e) give the amount, for each affected class, of the suspended recovery income at the end of the current year.

	<i>Disposal of replacement property: reduction in cost treated as depreciation loss</i>	
(13)	For the purposes of section EE 48, the amount by which a person’s expenditure on a replacement item is treated as being reduced under subsection (4) or (7) is an amount of depreciation loss for the item for which the person has been allowed a deduction.	5
	<i>Order of acquisition for items acquired at same time</i>	
(14)	If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.	10
	<i>Relationship to subpart EE</i>	
(15)	This section overrides subpart EE (Depreciation).	
	Defined in this Act: adjusted tax value, amount, commercial fit-out, Commissioner, deduction, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, diminishing value method, income year, liquidation, New Zealand, North Island flooding events, notice, notify, pool method, return of income, straight-line method	15
(2)	Subsection (1) applies for the 2022–23 and later income years.	
27	New cross-heading and sections EZ 83 to EZ 87 inserted	
(1)	After section EZ 82, insert:	20
	<i>Damage from North Island flooding events</i>	
	EZ 83 Insurance for damage of property caused by North Island flooding events: treatment as disposal and reacquisition	
	<i>When this section applies</i>	
(1)	This section applies for a person and an item of depreciable property when—	25
	(a) the item is damaged by a North Island flooding event; and	
	(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and	
	(c) the item is assessed by the payer of the insurance or compensation, or another qualified assessor, as uneconomic to repair; and	30
	(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).	
	<i>Treatment as disposal and reacquisition of item</i>	
(2)	The person is treated as, on the date of the relevant North Island flooding event,—	35
	(a) disposing of the item for the amount of insurance or compensation; and	
	(b) reacquiring the item for zero consideration.	

Relationship with section EE 52

- (3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received).

Defined in this Act: amount, depreciable property, dispose, North Island flooding events

EZ 84 Insurance for damage of property caused by North Island flooding events: limit on depreciation recovery income 5

When this section applies

- (1) This section applies for a person and an item of depreciable property when—
- (a) the item is damaged by a North Island flooding event; and
 - (b) the person is entitled to an amount of insurance or compensation for the damage to the item; and 10
 - (c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and
 - (d) **section EZ 83** does not apply for the item.

Limit on depreciation recovery income under section EE 52 15

- (2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in the income year an amount of depreciation recovery income equal to the lesser of— 20
- (a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section:
 - (b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item. 25

Relationship with section EE 52

- (3) This section overrides section EE 52.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year, North Island flooding events

EZ 85 Item treated as available for use if access restricted due to North Island flooding events 30

An item of depreciable property is treated for an income year as being available for use while access to the item is affected by a restriction imposed due to the effects of a North Island flooding event, if—

- (a) the item was used or available for use immediately before the restriction was imposed; and 35
- (b) the item would be used or available for use in the absence of the restriction; and

(c) the income year is the 2027–28 or an earlier income year.

Defined in this Act: depreciable property, income year, North Island flooding events

**EZ 86 Insurance for North Island flooding event damage causing disposal:
optional timing rule for income, deductions**

When this section applies

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(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a North Island flooding event; and

(b) the damage—

(i) results in the item being affected by a disposal and reacquisition under **section EZ 83**; or

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(ii) meets the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property meeting the requirements of **paragraphs (a) to (c)**.

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Attribution of income from insurance and disposal

(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person’s income from the insurance receipt and the consideration derived from the disposal of the item are attributed to the earlier of—

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(a) the 2027–28 income year:

(b) the first income year in which—

(i) the amount of the cost of disposing of the item (the **disposal cost**) is, or has been, incurred or able to be reasonably estimated; and

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(ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated.

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Attribution of deductions

(3) If the disposal cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person’s deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of—

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(a) the 2027–28 income year:

(b) the first income year in which—

- (i) the disposal cost is, or has been, incurred or able to be reasonably estimated; and
- (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and
- (iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated.

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Relationship with other sections

- (4) This section overrides sections EE 1, EE 22, and EE 48 (which state when depreciation loss and depreciation recovery income arise) in relation to the timing of the person’s—

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- (a) income from the insurance receipt and consideration from the disposal of the item:
- (b) deductions for the disposal cost and depreciation loss.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, dispose, income, income year, North Island flooding events

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EZ 87 Insurance for repairs of North Island flooding event damage: optional timing rule for income, deductions

When this section applies

- (1) This section applies for a person and an item of depreciable property when—

- (a) the item is damaged by a North Island flooding event; and
- (b) the damage—
 - (i) does not result in the item being subject to a disposal and reacquisition under **section EZ 83**; and
 - (ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and
- (c) the person is entitled to an amount of insurance or compensation for the damage to the item; and
- (d) the person chooses to apply this section for all items of depreciable property meeting the requirements of **paragraphs (a) to (c)**.

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Attribution of income from insurance

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- (2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person’s income from the insurance receipt is attributed to the earlier of—

- (a) the 2027–28 income year:
- (b) the first income year in which—

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- (i) the amount of expenditure for total repair of the damage (the **repair cost**) is, or has been, incurred or able to be reasonably estimated; and
- (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated. 5
- Attribution of deductions for repairs*
- (3) If the repair cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person’s deductions for the repair cost are attributed to the earlier of— 10
- (a) the 2027–28 income year:
- (b) the first income year in which—
- (i) the repair cost is, or has been, incurred or able to be reasonably estimated; and
- (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated. 15
- Relationship with other sections*
- (4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person’s— 20
- (a) income from the insurance receipt:
- (b) deductions for the repair cost.
- Defined in this Act: amount, deduction, depreciable property, dispose, income, income year, North Island flooding events
- (2) **Subsection (1)** applies for the 2022–23 and later income years.
- 28 Section FC 2 amended (Transfer at market value)** 25
- In section FC 2(3), replace “FC 6” with “FC 9C”.
- 29 Section FC 9B amended (Residential land: certain transferors)**
- (1) In section FC 9B(b), replace “an original” with “a”.
- (2) In section FC 9B(e), replace “an original” with “a”.
- 30 New cross-heading and section FZ 7B inserted** 30
- (1) After section FZ 7, insert:

Group property affected by North Island flooding events

FZ 7B Valuation of group assets: insurance proceeds from North Island flooding events

When this section applies

- (1) This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person if— 5
- (a) an asset of the person’s New Zealand group is damaged as a result of a North Island flooding event; and
 - (b) the asset is impaired or derecognised under generally accepted accounting practice as a result of the damage; and 10
 - (c) insurance for the damage is recognised at a later date under generally accepted accounting practice.

Optional treatment of insurance

- (2) The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person’s New Zealand group during the period— 15
- (a) beginning with the impairment or derecognition of the asset; and
 - (b) ending before the earlier of—
 - (i) the recognition of the amount of insurance: 20
 - (ii) the beginning of the 2027–28 income year.

Corresponding treatment for worldwide group

- (3) If a person includes an amount under **subsection (2)** in the value of the total group assets of the person’s New Zealand group for a period, the person must include the amount in the value of the total group assets of the person’s worldwide group for the period. 25

Notice to Commissioner

- (4) A person choosing to apply **subsection (2)** for an income year must give notice to the Commissioner of the following: 30
- (a) that the person has applied this section for the income year; and
 - (b) the amount of income that would arise under section CH 9 (Interest apportionment: excess debt entity) for the income year in the absence of this section; and
 - (c) the amount of income that arises under section CH 9 for the income year after the application of this section; and 35
 - (d) any further information required by the Commissioner.

Form and timing of notice

- (5) The information required by **subsection (4)** must be given—

<p>(a) in the form and by the means prescribed by the Commissioner; and</p> <p>(b) no later than the day by which the person is required to make a return of income for the corresponding tax year, or at a later time if the Commissioner considers there are exceptional circumstances.</p> <p>Defined in this Act: amount, Commissioner, generally accepted accounting practice, income, income year, North Island flooding events, notice, return of income, tax year, total group assets</p>	5	
<p>(2) Subsection (1) applies for the 2022–23 and later income years.</p>		
<p>31 Section HC 4 amended (Corpus of trust)</p>		
<p>(1) Replace section HC 4(3), other than the heading, with:</p>		
<p>(3) A property settlement by a trustee of another trust is excluded from corpus to the extent to which the property—</p> <p>(a) is not first distributed to a beneficiary, resident in New Zealand, of the other trust; and</p> <p>(b) if it were first distributed to a beneficiary, resident in New Zealand, of the other trust, the property would be beneficiary income or a taxable distribution to that beneficiary.</p>	10 15	
<p>(2) Subsection (1) applies for the 2024–25 and later income years.</p>		
<p>32 Section HC 7 amended (Trustee income)</p>		
<p>(1) After section HC 7(2), insert:</p>		
<p><i>Close companies' beneficiary income</i></p> <p>(2B) An amount of beneficiary income to which section HC 38 applies is treated as if it were trustee income for the purposes of—</p> <p>(a) determining the tax rate that applies; and</p> <p>(b) paying the tax; and</p> <p>(c) providing returns of income.</p>	20 25	
<p>(2) In section HC 7, list of defined terms, insert “tax”.</p>		
<p>(3) Subsection (1) applies for the 2024–25 and later income years.</p>		
<p>33 New section HC 8B inserted (Trustee income within 12 months after person's death)</p>		
<p>(1) After section HC 8, insert:</p>		
<p>HC 8B Trustee income within 12 months after person's death</p> <p><i>When this section applies</i></p> <p>(1) This section applies when a trustee of an estate of a deceased person derives, within 12 months after the death of the person, an amount that is trustee income (the post-death amount) and elects that subsection (2) apply to post-death amounts.</p>		30 35

	<i>Optional rate of tax</i>	
(2)	For an income year in which the trustee derives post-death amounts, the basic rate of income tax for the trustee on each dollar of the trustee’s taxable income is the rate calculated using the formula— (combined tax – pre-death tax) ÷ post-death income.	5
	<i>Definition of items in formula</i>	
(3)	In the formula,—	
	(a) combined tax means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived by the deceased person or the trustee—	10
	(i) in the income year; and	
	(ii) within 12 months after the death of the person:	
	(b) pre-death tax means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived in the income year by the deceased person:	15
	(c) post-death income means the total amount of trustee income derived by the trustee—	
	(i) in the income year; and	
	(ii) within 12 months after the death of the person.	20
	Defined in this Act: amount, basic rate, income tax, income year, tax, taxable income, trustee, trustee income	
(2)	Subsection (1) applies for the 2024–25 and later income years.	
34	Section HC 13 repealed (Charitable trusts)	
	Repeal section HC 13.	
35	Section HC 17 amended (Amounts derived as beneficiary income)	25
(1)	After section HC 17(2), insert:	
	<i>Beneficiaries that are close companies</i>	
(3)	Subsection (1) does not apply to beneficiary income derived by a close company to which section HC 38 applies. The beneficiary income is excluded income of the company under section CX 58B (Amounts derived by certain close companies from trusts) and treated as trustee income under section HC 38 .	30
(2)	In section HC 17, list of defined terms, insert “close company” and “company”.	
(3)	Subsection (1) applies for the 2024–25 and later income years.	35
36	Section HC 24 amended (Trustees’ obligations)	
(1)	After section HC 24(3), insert:	

<i>Beneficiary income of certain close companies</i>	
(3B) Section HC 38 applies to treat beneficiary income derived by a close company that meets the requirements of the section as if it were trustee income.	
(2) In section HC 24, list of defined terms, insert “close company”.	
(3) Subsection (1) applies for the 2024–25 and later income years.	5
37 Section HC 29 amended (Settlors’ liability to income tax)	
(1) In section HC 29(4)(a), replace “charitable trust” with “trust that is a tax charity”.	
(2) In section HC 29, list of defined terms, delete “charitable trust” and insert “tax charity”.	10
38 Section HC 31 amended (When existing trusts come into tax base)	
(1) In section HC 31(1B), replace “charitable trust” with “trust that is a tax charity”.	
(2) In section HC 31, list of defined terms, delete “charitable trust” and insert “tax charity”.	15
39 New sections HC 38 and HC 39 inserted	
(1) After section HC 37, insert:	
HC 38 Beneficiary income of certain close companies	
<i>When this section applies</i>	
(1) This section applies when a close company that is not a Maori authority or tax charity derives an amount of beneficiary income from a trust in an income year and a person for whom a settlor of the trust has natural love and affection holds, under sections YC 2 to YC 4 (which relate to interests held in a company), a voting interest or a market value interest in the close company.	20
<i>Treatment of amount derived</i>	
(2) The amount is—	
(a) excluded income of the close company under section CX 58B (Amounts derived by certain close companies from trusts); and	
(b) treated as trustee income for the purposes of determining the rate of tax that applies, who pays the relevant tax, and who provides the return of income.	30
<i>Relationship with other provisions</i>	
(3) This section—	
(a) overrides sections HC 5, HC 18 to HC 20, HC 22, HC 23, and HC 32; and	35

- (b) is overridden by section CW 10 (Dividend within New Zealand wholly-owned group).

Defined in this Act: amount, beneficiary income, close company, excluded income, income year, Maori authority, market value interest, return of income, settlor, tax, tax charity, trust, trustee income, voting interest

5

HC 39 Trustee income: disabled beneficiary trusts

When this section applies

- (1) This section applies when the trustee of a disabled beneficiary trust derives an amount of taxable income in an income year.

Basic rate of tax for trustee

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- (2) For an income year in which the trustee derives taxable income, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is the rate calculated using the formula—

(combined tax – tax on beneficiary's income) ÷ trustee income.

Definition of items in formula

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- (3) In the formula,—

(a) **combined tax** means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived in the income year by the disabled beneficiary or the trustee:

(b) **tax on beneficiary's income** means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived in the income year by the disabled beneficiary:

20

(c) **trustee income** means the total amount of trustee income derived in the income year by the trustee.

Definition of disabled beneficiary trust

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- (4) A **disabled beneficiary trust** is a trust with 1 beneficiary who,—

(a) for each income year for which the trustee claims that **subsection (2)** applies to the trust (the **claim year**), is a disabled beneficiary; and

(b) during the claim year and each income year after the claim year,—

(i) is the only person entitled to receive distributions from the trust that are not from the dissolution of the trust; and

30

(ii) is the only person entitled to receive distributions from the trust on the dissolution of the trust, if the beneficiary is alive when the trust is dissolved; and

(iii) cannot be replaced as a beneficiary.

35

Definition of disabled beneficiary

- (5) A **disabled beneficiary**, for an income year, is a person—

<p>(a) who, at a time in the income year, is paid a supported living payment under the Social Security Act 2018 on the ground of restricted work capacity:</p> <p>(b) for whom a child disability allowance is paid under the Social Security Act 2018 at a time in the income year.</p> <p>Defined in this Act: amount, disabled beneficiary, disabled beneficiary trust, distribution, income year, tax rate, taxable income, trust, trustee</p>	5
<p>(2) Subsection (1) applies for the 2024–25 and later income years.</p>	
<p>40 Section HD 12 amended (Trusts)</p>	
<p>(1) In section HD 12(2), replace “charitable trust” with “trust that is a tax charity”.</p> <p>(2) In section HD 12, list of defined terms, delete “charitable trust” and insert “tax charity”.</p>	10
<p>41 Section HF 1 amended (Maori authorities and the Maori authority rules)</p>	
<p>In section HF 1(2)(f), replace “clause 6” with “clause 7”.</p>	
<p>42 Section HG 4 amended (Disposal upon final dissolution)</p>	
<p>(1) In section HG 4(4), replace “partners” with “partner’s”.</p> <p>(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.</p>	15
<p>43 Section HM 60 amended (Notified investor rates)</p>	
<p>(1) In section HM 60(1), delete “Section 28B of the Tax Administration Act 1994 sets out the requirements for the notice.”</p> <p>(2) In section HM 60(4), delete “other than an investor who is a natural person”.</p>	20
<p>44 New subpart HP inserted (Taxation of members of certain multinational groups)</p>	
<p>After subpart HM, insert:</p>	
<p style="text-align: center;">Subpart HP—Taxation of members of certain multinational groups</p>	
<p>HP 1 Liability for multinational top-up tax</p>	
<p style="text-align: center;"><i>Payment of tax</i></p>	
<p>(1) Subject to subsection (2), a constituent entity that is required to pay an amount of tax for a fiscal year under the applied global anti-base erosion rules must pay the amount to the Commissioner.</p>	30

Exclusion

- (2) No amount of tax is payable to the Commissioner under this subpart for a component of the applied global anti-base erosion rules set out in **section HP 4(2)**—
- (a) if a date has not been declared under that section for the implementation in New Zealand of the component; or
- (b) for fiscal years starting before the date declared under that section for the implementation in New Zealand of the component, otherwise.

Joint and several liability

- (3) Each constituent entity that is located in New Zealand under the applied global anti-base erosion rules and that is a member of the same MNE group as a constituent entity described in **subsection (1) (entity A)** is jointly and severally liable with entity A for the amount of tax for the fiscal year payable by entity A under the applied global anti-base erosion rules.
- Defined in this Act: amount of tax, applied global anti-base erosion rules, Commissioner, New Zealand, pay

HP 2 Payment date for multinational top-up tax

A constituent entity must pay its multinational top-up tax for a fiscal year to the Commissioner by—

- (a) the date that is 20 months after the end of the fiscal year, if either or both of the following apply:
- (i) the earliest date declared under **section HP 4** for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section falls in the fiscal year;
- (ii) it is the first fiscal year in which the constituent entity is an entity to which the global anti-base erosion model rules apply, ignoring fiscal years that precede the fiscal year described in **subparagraph (i)**; or
- (b) the date that is 16 months after the end of the fiscal year, otherwise.

Defined in this Act: applied global anti-base erosion rules, Commissioner, global anti-base erosion model rules, multinational top-up tax, New Zealand, pay

HP 3 Application of global anti-base erosion model rules

What this section does

- (1) This section provides for the application of the global anti-base erosion model rules in determining the obligations of a person under the Inland Revenue Acts.

Modifications to global anti-base erosion model rules

- (2) For the purposes of determining the obligations of a person under the Inland Revenue Acts, the global anti-base erosion model rules are modified in the

ways specified in **schedule 25B** (Items modifying global anti-base erosion model rules).

Application of global anti-base erosion model rules

- (3) Subject to **section HP 1(2)** and any regulations made under **section 226G** of the Tax Administration Act 1994, the global anti-base erosion model rules are treated as applying at a time— 5
- (a) as modified by **subsection (2)**; and
 - (b) consistently with—
 - (i) the most recent commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the **Inclusive Framework**) and published by the OECD before the start of the fiscal year in which the time falls; and 10
 - (ii) the most recent guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD before the start of the fiscal year in which the time falls. 15

Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts

HP 4 Implementation of components of applied global anti-base erosion rules

Implementation by Order in Council 20

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, declare a date on which a component of the applied global anti-base erosion rules set out in **subsection (2)** is to be implemented in New Zealand.

Components of applied global anti-base erosion rules 25

- (2) The components are—
- (a) the rules set out in Article 2.1 to Article 2.3 of the global anti-base erosion model rules, as modified in the ways specified in **schedule 25B, item 1** (Items modifying global anti-base erosion model rules):
 - (b) the modifications to Article 2.1 of the global anti-base erosion model rules set out in **schedule 25B, item 2:** 30
 - (c) the rules set out in Article 2.4 to Article 2.6 of the global anti-base erosion model rules, as modified in the ways specified in **schedule 25B, items 1 and 3.**

Declaration of dates 35

- (3) For the purposes of **subsections (1) and (2)**,—
- (a) an Order in Council may deem a component to have been implemented in New Zealand on a date in the past if the date is not earlier than—
 - (i) 1 January 2024; and

	(ii) the first day of the calendar year in which the date is declared; and	
	(b) 1 or more Orders in Council may be made declaring different dates for different components.	
	<i>Secondary legislation</i>	
(4)	An Order in Council made under this section is secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	5
	Defined in this Act: applied global anti-base erosion rules, global anti-base erosion model rules, New Zealand	
	HP 5 Meaning of terms defined in global anti-base erosion model rules	
	In the application of this subpart and the global anti-base erosion model rules at a time, a term defined in the global anti-base erosion model rules and used in the Inland Revenue Acts has the meaning that it has at the time under the global anti-base erosion model rules, as modified by section HP 3(2) .	10
	Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts	
45	Section HP 5 amended (Meaning of terms defined in global anti-base erosion model rules)	15
	In section HP 5 (as inserted by section 44), after “subpart”, insert “, and sections 78H to 78J and 92BA of the Tax Administration Act 1994,”.	
46	Section HR 12 amended (Non-exempt charities: treatment of tax-exempt accumulations)	20
	In section HR 12(3)(a), replace “another person” with “a tax charity”.	
47	New section LE 4B inserted (Trustees for certain close companies)	
(1)	After section LE 4, insert:	
	LE 4B Trustees for certain close companies	
	<i>When this section applies</i>	25
(1)	This section applies when a person who has a tax credit under section LE 1 (the tax credit) is the trustee of a trust and a close company derives beneficiary income from the trust.	
	<i>Trustee treated as beneficiary</i>	
(2)	To the extent to which section HC 38 (Beneficiary income of certain close companies) applies, the person may act as an agent of the close company to apply the tax credit in satisfaction of a tax liability arising for the company from the beneficiary income.	30
	Defined in this Act: agent, beneficiary income, close company, tax credit, trustee	
(2)	Subsection (1) applies for the 2024–25 and later income years.	35

48 Section LJ 3 replaced (Meaning of foreign income tax)

Replace section LJ 3 with:

LJ 3 Meaning of foreign income tax

For the purposes of this Part, **foreign income tax**—

- (a) means— 5
- (i) an amount of a tax of another country meeting the requirements of section YA 2(5) (Meaning of income tax varied):
- (ii) in relation to a double tax agreement providing relief from tax or double taxation, an amount of tax to which the double tax agreement applies; and 10
- (b) does not include an amount of a tax of substantially the same nature as multinational top-up tax, ignoring **section HP 1(2)** (Liability for multinational top-up tax).

Defined in this Act: amount, amount of tax, double tax agreement, multinational top-up tax, tax

49 Section MB 7 amended (Family scheme income of settlor of trust) 15

- (1) In section MB 7(3), formula, replace “trustee income” with “trustee’s adjusted net income”.
- (2) In section MB 7(4)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”.
- (3) In section MB 7(7)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”. 20
- (4) In section MB 7(8)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”.
- (5) In section MB 7, list of defined terms, delete “trustee income”.

50 Section MK 2 amended (Eligibility requirements) 25

In section MK 2, list of defined terms, delete “resident in New Zealand”.

51 New section OB 7BB inserted (ICA payment of multinational top-up tax)

After section OB 7B, insert:

OB 7BB ICA payment of multinational top-up tax*Credit* 30

- (1) An ICA company has an imputation credit for an amount of multinational top-up tax paid under **section HP 1** (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in **schedule 25B, item 2** (Items modifying global anti-base erosion model rules). 35

Table reference

- (2) The imputation credit in **subsection (1)** is referred to in table O1: imputation credits, **row 5BB** (payment of multinational top-up tax).

Credit date

- (3) The credit date is the day the multinational top-up tax is paid. 5
- Defined in this Act: amount, ICA company, imputation credit, global anti-base erosion model rules, multinational top-up tax, pay

52 Table O1 amended (Imputation credits)

In table O1, after row 5B, insert:

5BB	Payment of multinational top-up tax	day of payment	section OB 7BB
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53 New section OP 11BA inserted (Consolidated ICA payment of multinational top-up tax) 10

After section OP 11, insert:

OP 11BA Consolidated ICA payment of multinational top-up tax

Credit

- (1) A consolidated imputation group has an imputation credit for an amount of multinational top-up tax paid under **section HP 1** (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in **schedule 25B, item 2** (Items modifying global anti-base erosion model rules). 15

Table reference

- (2) The imputation credit in **subsection (1)** is referred to in table O19: imputation credits of consolidated imputation groups, **row 6BA** (payment of multinational top-up tax). 20

Credit date

- (3) The credit date is the day the multinational top-up tax is paid. 25
- Defined in this Act: amount, consolidated imputation group, imputation credit, global anti-base erosion model rules, multinational top-up tax, pay

54 Table O19 amended (Imputation credits of consolidated imputation groups) 30

In table O19, after row 6B, insert:

6BA	Multinational top-up tax paid for group tax liability	day of payment	section OP 11BA
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55 Section RC 6 amended (Standard method)

In section RC 6(5), replace “preceding tax year” with “relevant tax year”.

56 Section RD 17 amended (Payment of extra pay with other PAYE income)

(1) Replace section RD 17(1)(b) with:

(b) the annualised value of the PAYE income payments for the last two pay periods before the 1 for the extra pay. 5

(2) In section RD 17, list of defined terms, insert “pay period”.

57 New sections RD 20B and RD 20C inserted

(1) After section RD 20, insert:

RD 20B Payments of accident compensation earnings-related payment for period of more than 1 year 10

What this section applies to

(1) This section applies to a person for a payment (the **multi-year compensation payment**) that is an accident compensation earnings-related payment consisting of a lump sum and relating to a period of more than 1 income year for the person. 15

Tax rate for payment and income year

(2) The tax rate given by **subsection (3)** applies to the multi-year compensation payment for the income year in which the person derives the payment.

Tax rate 20

(3) The tax rate referred to in **subsection (2)** is—

(a) 10.5%, if the rate given by the formula in **subsection (4)** (the **average basic tax rate**) is less than 10.5% and **paragraph (c)** does not apply; or

(b) the average basic tax rate, if neither of **paragraphs (a) and (c)** applies; or 25

(c) the person’s basic tax rate for the income year in which the person derives the multi-year compensation payment, if that basic tax rate is less than the average basic tax rate.

Formula for average basic tax rate

(4) The average basic tax rate for this section is calculated using the formula— 30
 $0.25 \times (\text{basic rate 1} + \text{basic rate 2} + \text{basic rate 3} + \text{basic rate 4}).$

Definition of items in formula

(5) In the formula in **subsection (4)**,—

(a) **basic rate 1** is the person’s basic tax rate calculated under schedule 1, Part A, clause 1 for the first income year in the period of 4 income years (the **rate averaging period**) ending before the income year in which the person derives the multi-year compensation payment: 35

(b) **basic rate 2** is the person’s basic tax rate calculated under schedule 1, Part A, clause 1 for the second income year in the rate averaging period:

(c) **basic rate 3** is the person’s basic tax rate calculated under schedule 1, Part A, clause 1 for the third income year in the rate averaging period:

(d) **basic rate 4** is the person’s basic tax rate calculated under schedule 1, Part A, clause 1 for the fourth income year in the rate averaging period. 5

Defined in this Act: accident compensation earnings-related payment, basic tax rate, income year, pay

RD 20C Payments of main benefit for period of more than 1 year

What this section applies to 10

(1) This section applies to a person for a payment (the **multi-year main benefit payment**) that is a main benefit as defined in paragraph (a) of the definition of **main benefit** in section YA 1 and consists of a lump sum relating to a period of more than 1 income year for the person.

Tax rate for payment 15

(2) The rate of income tax given by **subsection (3)** applies to the multi-year main benefit payment for the income year in which the person derives the payment.

Formula for tax rate

(3) The rate of income tax referred to in **subsection (2)** is the rate calculated using the formula— 20

$$\text{tax deduction} \div (\text{received amount} + \text{tax deduction}).$$

Definition of items in formula

(4) In the formula in **subsection (3)**,—

(a) **tax deduction** is the amount paid to the Commissioner by the department of State responsible for the administration of the Social Security Act 2018 (the **MSD**) as the amount for income tax payable on the multi-year main benefit payment: 25

(b) **received amount** is the amount paid to the person by the MSD as the amount of the multi-year main benefit payment after the withholding of income tax. 30

Defined in this Act: amount, Commissioner, income tax, income year, main benefit, pay

(2) **Subsection (1)** applies for accident compensation earnings-related payments, and payments of main benefit, made on or after 1 April 2024.

58 Section RE 14C amended (Non-cash dividends distributed through intermediaries) 35

(1) In section RE 14C, words before the paragraphs, replace “RE 5” with “RE 4”.

(2) In section RE 14C, paragraph (a)(i), replace “derives” with “receives”.

- (3) In section RE 14C, paragraph (a)(ii), insert “attributes or” before “distributes”, and replace “company” with “foreign company”.
- (4) In section RE 14C, paragraph (a)(iii), insert “attribution or” before “distribution”.
- (5) In section RE 14C, paragraph (b), insert “attribution or” before “distribution”, and replace “derived” with “received”. 5
- (6) **Subsections (1) to (5)** apply for the 2017–18 and later income years.
- 59 Section YA 1 amended (Definitions)**
- (1) This section amends section YA 1.
- (2) In the definition of **accommodation**, paragraph (b), replace “CZ 29, and CZ 30” with “CZ 23B, and CZ 29 to CZ 30”. 10
- (3) Insert, in appropriate alphabetical order:
- affected area** means any of the following regions or districts:
- (a) the regions of Northland, Auckland, Waikato, Bay of Plenty, Gisborne, and Hawke’s Bay: 15
- (b) the districts of Taranaki, Masterton, Carterton, South Wairarapa, Manawatu, and Rangitikei
- (4) In the definition of **ancillary tax**, after paragraph (h), insert:
- (hb) multinational top-up tax: 20
- (5) Insert, in appropriate alphabetical order:
- applied global anti-base erosion rules** means the global anti-base erosion model rules as applied by **section HP 3** (Application of global anti-base erosion model rules)
- (6) Insert, in appropriate alphabetical order:
- building** includes, for the purposes of **subpart EE** (Depreciation), part of a building, to the extent to which it is unit titled 25
- (7) Repeal the definition of **charitable trust**.
- (8) In the definition of **council-controlled organisation**, replace paragraph (a)(vii) and (viii) with:
- (vii) New Zealand Local Government Insurance Corporation and any subsidiaries it has; but 30
- (9) Insert, in appropriate alphabetical order:
- disabled beneficiary** is defined in **section HC 39(5)** (Trustee income: disabled beneficiary trusts)
- (10) Insert, in appropriate alphabetical order:
- disabled beneficiary trust** is defined in **section HC 39(4)** (Trustee income: disabled beneficiary trusts) 35

- (11) Insert, in appropriate alphabetical order:
- global anti-base erosion model rules** means the model rules—
- (a) set out in *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, which is a document— 5
- (i) approved by the OECD/G20 Inclusive Framework on BEPS on 14 December 2021; and
- (ii) published by the OECD; and
- (b) as amended from time to time, except any amendments to the definition of **minimum rate** in Article 10.1.1 of the model rules referred to in **paragraph (a)** 10
- (12) Insert, in appropriate alphabetical order:
- multinational top-up tax** means tax payable under **subpart HP** (Taxation of members of certain multinational groups)
- (13) Replace the definition of **North Island flooding events** with: 15
- North Island flooding events**—
- (a) means flooding and other damage that occurred in an affected area caused by any of the following weather events:
- (i) Cyclone Hale, which crossed the North Island of New Zealand during the period commencing on 8 January 2023 and ending on 12 January 2023: 20
- (ii) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:
- (iii) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023; and 25
- (b) includes circumstances where damage caused by any of the events listed in **paragraph (a)** is exacerbated by a subsequent weather event
- (14) In the definition of **residential land**, paragraph (a)(i), replace “farmland,” with “farmland”. 30
- (15) In the definition of **schedular income**, after paragraph (k), insert:
- (l) income to which **section RD 20B** (Accident compensation earnings-related payments for period of more than 1 year) applies: 35
- (m) income to which **section RD 20C** (Payments of main benefit for period of more than 1 year) applies
- (16) In the definition of **trust rules**,—
- (a) in paragraph (ab), after “CW 54,” insert “**CX 58B**,”:

- (b) in paragraph (g), replace “LE 4, LE 5” with “LE 4 to LE 5”.
- (17) **Subsections (9), (10), and (16)** apply for the 2024–25 and later income years.
- (18) **Subsection (14)** applies—
- (a) for purposes of the rules related to the bright-line test for residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, **subsection (14)** does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, **subsection (14)** does not apply to—
- (i) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 27 March 2021:
- (ii) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision:
- (b) for other purposes, for the 2021–22 and later income years.
- (19) **Subsection (15)** applies for accident compensation earnings-related payments, and payments of main benefit, made on or after 1 April 2024.
- 60 Section YB 8 amended (Trustee and settlor)**
- (1) In section YB 8(2), replace “charitable trust” with “tax charity”.
- (2) In section YB 8, list of defined terms, delete “charitable trust” and insert “tax charity”.
- 61 Section YD 4 amended (Classes of income treated as having New Zealand source)**
- Replace section YD 4(17D), other than the heading, with:
- (17D) Income of a non-resident that may be taxed in New Zealand under a double tax agreement and does not have a source under subsections (15) to (17) has a source in New Zealand, except if the income is—
- (a) a dividend from a share in a foreign company that is not revenue account property:
- (b) technical services fees:
- (c) a royalty or interest payment connected to a permanent establishment outside New Zealand.

- 62 Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits)**
- (1) In schedule 1, part A, clause 3,
- (a) replace “clause 4, 5 or 6” with “clause 4, 5, 6, **6B**, or **6C**”:
- (b) replace “0.33” with “0.39”. 5
- (2) After schedule 1, part A, clause 6, insert:
- 6B Taxable income: trustees of disabled beneficiary trusts**
- For a trustee of a disabled beneficiary trust, the basic rate of income tax on each dollar of the trustee’s taxable income is the rate given by **section HC 39(2)** (Trustee income: disabled beneficiary trusts). 10
- 6C Taxable income: trustees of certain estates**
- For a trustee of an estate and an income year referred to in **section HC 8B** (Trustee income within 12 months after person’s death), the basic rate of income tax on each dollar of the trustee’s taxable income for the income year is the rate given by that section. 15
- (3) In schedule 1, part A, after clause 12, insert:
- 13 Schedular taxable income: accident compensation earnings-related payments for period of more than 1 year**
- The basic rate of income tax for a person on each dollar of the person’s schedular taxable income that is income from a payment to which **section RD 20B** (Accident compensation earnings-related payments for periods of more than 1 year) applies is the tax rate given by **section RD 20B(3)** for the payment and the tax year in which the person derives the payment. 20
- 14 Schedular taxable income: main benefit payments for period of more than 1 year**
- The basic rate of income tax for a person on each dollar of the person’s schedular taxable income that is income from a payment to which **section RD 20C** (Payments of main benefit for period of more than 1 year) applies is the rate of income tax given by **section RD 20C(3)** for the payment and the tax year in which the person derives the payment. 25 30
- (4) **Subsections (1) and (2)** apply for the 2024–25 and later income years.
- (5) **Subsection (3)** applies for accident compensation earnings-related payments, and payments of main benefit, made on or after 1 April 2024.
- 63 New schedule 25B inserted (Items modifying global anti-base erosion model rules)** 35
- After schedule 25, insert the **schedule 25B** set out in **Schedule 1** of this Act.

- 64 Schedule 32 amended (Recipients of charitable or other public benefit gifts)**
- (1) This section amends schedule 32.
- (2) Insert, in appropriate alphabetical order:
- (a) “Butterfly Trust”: 5
- (b) “Develop Together”:
- (c) “Ekal Vidyalaya Foundation of New Zealand”:
- (d) “Pasifika Safe Shelter Trust”:
- (e) “The Limapela Foundation”:
- (f) “The Make My Name Count NZ Charitable Trust”. 10
- (3) Delete—
- (a) “Akha Rescue Ministry Charitable Trust”:
- (b) “Astha Childrens Home (Nepal/New Zealand)”:
- (c) “Bangladesh Flood Appeal Trust”:
- (d) “Nelson Mandela Trust (New Zealand)”: 15
- (e) “Operation Hope (Aid Ship to Africa)”:
- (f) “The Bougainville Library Trust”:
- (g) “The Mutima Charitable Trust”:
- (4) Delete “The Make My Name Count NZ Charitable Trust” and “Ekal Vidyalaya Foundation of New Zealand”. 20

Part 3

Amendments to Tax Administration Act 1994

- 65 Amendments to Tax Administration Act 1994**
- This Part amends the Tax Administration Act 1994.
- 66 Section 3 amended (Interpretation)** 25
- (1) This section amends section 3(1).
- (2) In the definition of **civil penalty**, after paragraph (cb), insert:
- (cbb) a penalty under **section 139AAB**; or
- (3) In the definition of **civil penalty**, replace **paragraph (cbb)** (as inserted by **subsection (2)**) with: 30
- (cbb) a penalty under **section 139AAB or 139ABB**; or
- (4) In the definition of **gift-exempt body**, replace paragraph (b) with:
- (b) a charitable entity registered under the Charities Act 2005; or

- (c) any other person who has or is eligible to receive RWT-exempt status under section 32E(2)(k) or (l), for a tax year in which they have or are eligible to receive that status
- (5) Insert, in appropriate alphabetical order:
multinational top-up tax return means a return required under **section 78J** 5
- 67 Section 32E amended (Applications for RWT-exempt status)**
In section 32E(1A), replace “trust” with “entity”.
- 68 Section 78G amended (Country-by-country report from large multinational group)**
- (1) Replace section 78G(2) with: 10
- (2) The report for a period must be provided to the Commissioner—
- (a) in the prescribed electronic format; and
- (b) by the date that is 12 months after the end of the period.
- (2) **Subsection (1)** applies for periods—
- (a) set by the Commissioner under section 78G of the Tax Administration Act 1994; and 15
- (b) starting on or after the earliest date declared under **section HP 4** of the Income Tax Act 2007 for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section. 20
- 69 New sections 78H to 78J inserted**
- (1) After section 78G, insert:
- 78H Registration for purposes of applied global anti-base erosion rules**
- (1) The Commissioner may register an MNE group if it includes an entity—
- (a) to which the global anti-base erosion model rules apply; and 25
- (b) located in New Zealand under the applied global anti-base erosion rules.
- (2) The Commissioner must deregister an MNE group that has been registered under **subsection (1)** if the Commissioner is satisfied that the group no longer includes an entity that meets the requirements set out in **paragraphs (a) and (b)** of that subsection. 30
- (3) A constituent entity of an MNE group that is not registered under this section must apply to the Commissioner for registration of the MNE group by the date that is 6 months after the end of any fiscal year ending on or after the commencement of this section in which the constituent entity meets the requirements set out in **subsection (1)(a) and (b)**. 35
- (4) An application for registration of an MNE group under this section must be in the form prescribed by the Commissioner and contain—

- (a) the name of the ultimate parent entity of the MNE group; and
- (b) the ultimate parent entity’s tax file number, if any; and
- (c) any taxpayer identification numbers of the ultimate parent entity; and
- (d) any other information required by the Commissioner.
- (5) If an MNE group ceases to include an entity that meets the requirements set out in **subsection (1)(a) and (b)**, a constituent entity of the group must notify the Commissioner of that fact by the date that is 6 months after the end of the fiscal year in which the group ceased to include an entity that meets those requirements. 5
- (6) An obligation of a constituent entity of an MNE group under this section may be met by another constituent entity of the MNE group that meets the requirements set out in **subsection (1)(a) and (b)**. 10
- 78I Pre-assessment annual information reporting requirements for purposes of applied global anti-base erosion rules**
- (1) A constituent entity of an MNE group must provide to the Commissioner, in the prescribed electronic format, the information set out in Article 8.1.4(a) to (e) of the global anti-base erosion model rules for the MNE group for each fiscal year in which the constituent entity is— 15
- (a) an entity to which the global anti-base erosion model rules apply; and
- (b) located in New Zealand under the applied global anti-base erosion rules. 20
- (2) The information required to be provided under **subsection (1)** for a fiscal year must be provided to the Commissioner by,—
- (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year; or 25
- (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (3) **Subsection (1)** does not apply to a constituent entity of an MNE group for a fiscal year for which the information set out in Article 8.1.4(a) to (e) of the global anti-base erosion model rules for the MNE group has been provided by the relevant date set out in **subsection (4)**— 30
- (a) to a foreign competent authority that is obliged to exchange that information with the Commissioner; and
- (b) by—
- (i) the ultimate parent entity of the MNE group; or
- (ii) another constituent entity of the MNE group that has been appointed by the MNE group to provide that information on behalf of the MNE group. 35
- (4) The relevant date referred to in **subsection (3)** is,—

- (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year; or
- (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (5) The exclusion in **subsection (3)** does not apply to a constituent entity of an MNE group for a fiscal year in which the ultimate parent entity of the MNE group is located in New Zealand under the applied global anti-base erosion rules. 5
- (6) A constituent entity to which the exclusion in **subsection (3)** applies must notify the Commissioner of— 10
- (a) the identity of the entity that is providing the relevant information for the fiscal year; and
- (b) the jurisdiction in which that entity is located under the global anti-base erosion model rules.
- (7) A notification under **subsection (6)** for a fiscal year must be given by,— 15
- (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year; or
- (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (8) An obligation of a constituent entity of an MNE group under this section may be met by another constituent entity of the MNE group that— 20
- (a) is located in New Zealand under the applied global anti-base erosion rules; and
- (b) has been appointed for that purpose by the members of the MNE group located in New Zealand under the applied global anti-base erosion rules. 25
- 78J Annual multinational top-up tax return**
- (1) This section applies to a constituent entity located in New Zealand under the applied global anti-base erosion rules for a fiscal year in which the constituent entity is an entity to which the global anti-base erosion model rules apply.
- (2) The constituent entity must provide to the Commissioner a return for the fiscal year, in the form prescribed by the Commissioner, that shows— 30
- (a) whether or not the constituent entity has a multinational top-up tax liability for the fiscal year; and
- (b) the amount of multinational top-up tax payable by the constituent entity for the fiscal year, if any; and 35
- (c) any other information required by the Commissioner.
- (3) The return for a fiscal year must be provided to the Commissioner by,—

- (a) for the first fiscal year for which the constituent entity is required to provide a return under this section, the date that is 20 months after the end of the fiscal year; or
- (b) otherwise, the date that is 16 months after the end of the fiscal year.
- (4) A return must contain a notice of the assessment required to be made under **section 92BA**. 5
- (2) **Sections 78I and 78J**, as inserted by **subsection (1)**, apply for fiscal years starting on or after the earliest date declared under **section HP 4** of the Income Tax Act 2007 for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section. 10
- 70 Section 79 amended (Other annual returns)**
- (1) In section 79, replace “sections 33 and 41 to 44” with “sections 33, 41 to 44, and 59BA”.
- (2) Replace “and 59BA” (as inserted by **subsection (1)**) with “59BA, and **78J**”. 15
- (3) **Subsection (1)** applies for the 2021–22 and later income years.
- 71 Section 80 amended (Commissioner may require other returns to be made)**
- (1) In section 80, after “44,”, insert “59BA,”.
- (2) In section 80, after “63,”, insert “**78J**,”.
- (3) **Subsection (1)** applies for the 2021–22 and later income years. 20
- 72 New section 92BA inserted (Taxpayer assessment of multinational top-up tax)**
- Before section 92B, insert:
- 92BA Taxpayer assessment of multinational top-up tax**
- (1) A taxpayer who is required to provide a multinational top-up tax return for a fiscal year must make an assessment of the amount of multinational-top up tax payable by the taxpayer for the fiscal year. 25
- (2) An assessment under this section is made on the date on which the taxpayer’s multinational top-up tax return is received at an office of the department.
- (3) This section does not apply to a taxpayer for a fiscal year if the Commissioner has made an assessment of the multinational top-up tax payable by the taxpayer for the fiscal year. 30
- 73 Section 120KBB amended (Interest for most standard method provisional taxpayers)**
- (1) In section 120KBB(1)(a), delete “(for example: a person does not make a required payment, so section 120KE does not apply)”. 35
- (2) **Subsection (1)** applies for the 2022–23 and later income years.

74 New section 139AAB inserted (Penalty for large multinational group failing to meet country-by-country reporting requirements)

(1) After section 139AA, insert:

139AAB Penalty for large multinational group failing to meet country-by-country reporting requirements 5

- (1) This section applies when a large multinational group with an ultimate owner that is a New Zealand resident fails to comply with the requirements of section 78G. 5
- (2) The ultimate owner is liable to pay a penalty under this section.
- (3) The penalty under this section is the amount specified by the Commissioner, which must not exceed \$100,000. 10
- (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: 15
 - (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.
- (2) **Subsection (1)** applies for periods—
 - (a) set by the Commissioner under section 78G of the Tax Administration Act 1994; and 20
 - (b) starting on or after the earliest of the following dates:
 - (i) the date on which this section comes into force:
 - (ii) the earliest date declared under **section HP 4** of the Income Tax Act 2007 for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section. 25

75 New section 139ABB inserted (Penalties for purposes of applied global anti-base erosion rules)

After section 139AB, insert:

139ABB Penalties for purposes of applied global anti-base erosion rules 30

- (1) A taxpayer is liable to pay a penalty under this section if—
 - (a) the taxpayer does not apply for registration as required under **section 78H**; or
 - (b) the taxpayer does not comply with the requirements of **section 78I or 78J**. 35
- (2) Subject to **subsection (3)**, the penalty under this section is the amount specified by the Commissioner, which must not exceed \$100,000.

- (3) The penalty under this section for not complying with the requirements of **section 78J** is \$500.
- (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: 5
 - (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.

76 Section 141B amended (Unacceptable tax position)

- (1) In section 141B(2), after “in relation to”, insert “multinational top-up tax or”. 10
- (2) In section 141B(3)(b), words before the subparagraphs, before “where”, insert “except in the case of multinational top-up tax,”.
- (3) In section 141B(8)(b), before “the tax”, insert “except in the case of multinational top-up tax,”.
- (4) **Subsections (1), (2), and (3)** apply in relation to multinational top-up tax for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2027. 15

77 New section 226G inserted (Application of changes to commentary or guidance relating to global anti-base erosion model rules)

After section 226F, insert: 20

226G Application of changes to commentary or guidance relating to global anti-base erosion model rules

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, make regulations providing for—
 - (a) the non-application of a change to— 25
 - (i) the commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the **Inclusive Framework**) and published by the OECD; or
 - (ii) guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD: 30
 - (b) a period for which a change referred to in **paragraph (a)** does not apply.
- (2) A regulation may provide for the change, extension, limitation, suspension, or cancellation of an earlier regulation. 35
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 4

Amendments to other enactments and revocations

Amendments to Goods and Services Tax Act 1985

- 78 Amendments to Goods and Services Tax Act 1985**
Sections 79 to 83 amend the Goods and Services Tax Act 1985. 5
- 79 Section 10 amended (Value of supply of goods and services)**
In section 10(15C), delete “section IA 6 of” in each place.
- 80 Section 11A amended (Zero-rating of services)**
In section 11A(1)(r), replace “for the purposes of section IA 6 of” with “under”. 10
- 81 Section 19N amended (Supply correction information)**
In section 19N(7)(a), after “paragraph (b)”, insert “or (c)”.
- 82 Section 20 amended (Calculation of tax payable)**
In section 20(3J)(a)(iv)(B) replace “14(4)” with “6(3)(e)”.
- 83 Section 25 amended (Adjustments for inaccuracies)** 15
- (1) In section 25(4), words before the paragraphs, replace “the credit note or debit note” with “the tax invoice”.
- (2) In section 25(4), words before the paragraphs, replace “the tax invoice” with “the taxable supply information”.

Amendments to KiwiSaver Act 2006 20

- 84 Amendments to KiwiSaver Act 2006**
Sections 85 and 86 amend the KiwiSaver Act 2006.
- 85 Section 4 amended (Interpretation)**
In section 4(1), definition of **salary or wages**, paragraph (a)(v)(A), replace “section RD 5(1)(b)(iii), (6)(bd) to (bg), and (7)” with “section RD 5(1)(b)(iii) and (6)(bd) to (bg)”. 25
- 86 Section 220B amended (Information sharing)**
After section 220B(1)(c), insert:
- (d) information relating to the administration of the estate of a person who is a deceased member of a scheme. 30

*Amendments to Child Support Act 1991***87 Amendments to Child Support Act 1991**

Sections 88 and 89 amend the Child Support Act 1991.

88 Section 87A amended (Four-year time bar for amendment of certain assessments)

5

Replace section 87A(2)(c) with:

- (c) an amended assessment is required to give effect to a decision, determination, or exemption made under Part 5A (which relates to exemptions for hospital patients, persons suffering from long-term periods of illness, prisoners, persons under 16 years, and victims of sex offences).

10

89 Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)

In Schedule 1,—

- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
(b) make all necessary consequential amendments.

15

*Amendment to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022***90 Amendment to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022**

- (1) This section amends the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022. 20
(2) In section 227(8), replace “(7)” with “(7)(b)”.

*Amendment to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023***91 Amendment to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023**

25

- (1) This section amends the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023.
(2) In section 152(4), new section 60C(2BE), words before the paragraphs, replace “as defined in section IA 6 of” with “under”.

30

*Revocations***92 Revocations**

The following orders are revoked:

- (a) COVID-19 Resurgence Support Payments Scheme (August 2021) Order 2021 (LI 2021/222):
- (b) COVID-19 Resurgence Support Payments Scheme (July 2021) Order 2021 (LI 2021/166):
- (c) COVID-19 Resurgence Support Payments Scheme (March 2021) Order 2021 (LI 2021/33): 5
- (d) COVID-19 Support Payments Scheme (Omicron Outbreak) Order 2022 (SL 2022/45).

Schedule 1

New schedule 25B inserted into Income Tax Act 2007

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Schedule 25B		
Items modifying global anti-base erosion model rules		5
	ss HP 3, HP 4, OB 7BB, OP 11BA	
1	Each of the following formulations of wording are replaced by the words “New Zealand” in each place:	
	(a) “[insert name of implementing-jurisdiction]”:	
	(b) “[insert name of implementing-Jurisdiction]”:	10
	(c) “[insert name of implementing jurisdiction]”.	
2	The following Articles are inserted after Article 2.1.6:	
	2.1.7 A Parent Entity located in New Zealand that is a member of an MNE Group that includes an Ultimate Parent Entity located in New Zealand shall apply the provisions of Articles 2.1.1 to 2.1.5 with respect to a Low-Taxed Constituent Entity that is located in New Zealand. For this purpose, an Ultimate Parent Entity shall be treated as owning all Ownership Interests in itself.	15
	2.1.8 Article 2.1.7 does not apply to a Parent Entity of an MNE Group that is in the initial phase of its international activity (<i>see</i> Article 9.3.2).	20
3	Articles 2.4.1 and 2.4.2 are replaced with:	
	2.4.1 Constituent Entities of an MNE Group located in New Zealand shall, for a Fiscal Year, pay a tax in an amount equal to the least of the following amounts:	
	(a) the amount that is equal to the sum of the UTPR Top-up Tax Amount for the Fiscal Year allocated to New Zealand and any amount carried forward to the Fiscal Year under Article 2.4.2 :	25
	(b) the amount that results from multiplying the sum of the annual total deduction and available tax losses for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year:	30
	(c) the amount that results from multiplying the sum of the annual gross income for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year.	35

	2.4.2 If, for a Fiscal Year, the amount described in Article 2.4.1(a) exceeds the amount of the tax liability described in that Article, an amount equal to the excess is carried forward to the next Fiscal Year.	
4	Article 7.2.1(b)(i) is replaced with:	
	(i) is a tax resident in the UPE Jurisdiction, or has a fixed establishment in the UPE Jurisdiction, or both; and	5
5	Article 8.1 is disregarded.	
6	Article 8.3 is disregarded.	
7	In Article 9.3.2, in the words before the paragraphs, “Article 9.3” is replaced with “Articles 2.1 and 9.3”.	10
8	In Article 9.3.5, in the words before the paragraphs, the words “[<i>Optional provision</i>]” are disregarded.	
9	In Article 9.3.5(a), the words “[<i>Optional provision</i>]” are disregarded.	
10	Article 9.4 is disregarded.	
11	The following Article is inserted after Article 10.1.1:	15
	10.1.2 The terms annual gross income, annual total deduction, available tax loss, fixed establishment, income year, and tax year have the same meanings as in the Income Tax Act 2007 (NZ).	

Schedule 2

New Part 7 inserted into Schedule 1 of Child Support Act 1991

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Part 7

Provisions relating to Taxation (Annual Rates for 2023–24,
Multinational Tax, and Remedial Matters) Act 2023 529 Amendment to section 87A (Four-year time bar for amendment of certain
assessments)

The amendment to section 87A made by **section 88** of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** 10 applies in respect of all child support years, whether ending before, on, or after 26 October 2021.