Taxation (Simplification and Other Remedial Matters) Act 1998

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An Act to make remedial amendments respecting tax and other payments under the Inland Revenue Acts

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title

This Act may be cited as the Taxation (Simplification and Other Remedial Matters) Act 1998.

Part 1
Amendments to Tax Administration Act 1994

2 Tax Administration Act 1994

The Tax Administration Act 1994 is amended by this Part.

3 Interpretation

(1) In section 3(1)—

(a) In the definition of **benefit**, in the portion before paragraph (a), "82, 84" is replaced by "82, 82A, 84".

(b) In the definition of **civil penalty**, in paragraph (c) "penalty." is replaced by "penalty; or", and the following is added:

"(d) A non-electronic filing penalty:"

(c) In the definition of **tax**, after paragraph (a)(x), the following is added:

"(xi) A rebate under section 41A:"

(d) In the definition of **tax position**, after paragraph (k), the following is added:

"(l) Whether the taxpayer must request an income statement or respond to an income statement issued by the Commissioner:

"(m) The application of section 33A(1):

"(n) A right to a rebate:"

(e) The definition of **taxpayer's tax position** is replaced by:

"**Taxpayer's tax position** means—

"(a) Unless paragraph (b) applies, a tax position taken by a taxpayer in or in respect of—

"(i) A tax return; or

"(ii) An income statement; or

"(iii) A due date:

"(b) If—

"(i) The tax is income tax; and

"(ii) The taxpayer alters a tax position taken in a tax return or in an income statement before the earlier of—

"(A) The issue of an assessment in respect of the tax; and

"(B) The due date for payment of the tax,—

the tax position the taxpayer takes or is deemed to take in the last amended tax return or in the last amended income statement received by the Commissioner before the issue of the assessment or the deemed assessment or before the due date, whichever applies:"

(f) The following is inserted:

"**Income statement** means a statement issued by the Commissioner to a natural person that contains the information in section 80E".

(2) Subsection (1)(a) applies on and after 1 April 1999.

(3) Subsection (1)(b) to (f) applies to the 1999–2000 and subsequent income years.

4 Construction of certain provisions

(1) After section 4A(1)(c), the following is inserted:

"(ca) A provision referring to a tax position taken in an income statement refers to a tax position taken explicitly or implicitly in the income statement, whether or not the tax position was included by the Commissioner in the income statement:".

(2) Subsection (1) applies on and after 1 April 1999.

5 Taxpayer's tax obligations

(1) After section 15B(g), the following are added:

"(h) If a natural person to whom section 80C applies, inform the Commissioner that the person has not received an income statement for an income year, if the income statement is not received by the date prescribed in section 80C(2) or (3):

"(i) If the taxpayer is a natural person, correctly respond to any income statement issued to the taxpayer."

(2) Subsection (1) applies on and after 1 April 1999.

6 Keeping of returns where information transmitted electronically

(1) In section 23(2)(b), "liquidated." is replaced by "liquidated; or" and the following is added:

"(c) That is an employer monthly schedule."

(2) Subsection (1) applies on and after 1 April 1999.

7 Resident withholding tax deduction certificates

(1) Section 25(6) is replaced by—

"(6) A resident withholding tax deduction certificate prepared in accordance with this section must include the following:

"(a) The full name and address of the payer:

"(b) The full name and last known address of the recipient unless, after making reasonable inquiries, the payer is unable to obtain those details:

"(c) The tax file number of the recipient, if known to the payer:

"(d) A statement as to whether the resident withholding income to which the certificate relates is interest or specified dividends:

"(e) The date on which the deduction was made, or if there is more than one deduction, the year in which the deductions were made and to which the certificate relates:

"(f) The amount of the resident withholding tax deduction or deductions and the amount of resident withholding income to which the certificate relates:

"(g) In respect of interest, the amount that is subject to the deduction of resident withholding tax at the rate specified in Schedule 14, clause 1(c) of the Income Tax Act 1994, unless paragraph (h) applies:

"(h) If the interest payer elects to apply the formula prescribed under subsection (6A), the amount determined using that formula:

"(i) In respect of interest to which paragraph (g) applies, a statement by the Commissioner that the recipient may be required to request the issue of an income statement.

"(6A) The Commissioner may prescribe a formula for determining the amount of interest subject to the resident withholding tax

rate specified in Schedule 14, clause 1(c) of the Income Tax Act 1994."

(2) Subsection (1) applies to a resident withholding tax deduction certificate required to be issued in respect of interest paid on and after 1 April 1999.

8 Annual income tax returns by taxpayers

(1) Section 33(2) is replaced by—

"(2) A taxpayer to whom section 33A(1) applies in an income year is not required to furnish a return of income in respect of that income year."

(2) Subsection (1) applies to the 1999–2000 and subsequent income years.

9 Section replaced

(1) Section 33A is replaced by—

"**33A Annual income tax returns not required**

"(1) A natural person is not required to furnish a return of income for an income year and will not receive an income statement from the Commissioner for the year if, in the year, the person—

"(a) Had gross income that was derived from—

"(i) Income from employment that is subject to the PAYE rules; or

"(ii) Interest or a dividend that is subject to the RWT rules; or

"(iii) Interest or a dividend that does not have a New Zealand source; and

"(b) Derives a total of $200 or less of—

"(i) Gross income that is subject to the PAYE rules and to a student loan repayment deduction under sections 19 and 20 of the Student Loan Scheme Act 1992, in relation to which the person's obligations under those rules are not met; and

"(ii) Interest that is subject to the RWT rules, in relation to which the natural person does not comply with his or her obligations under those rules; and

"(iii) Income from employment from which the earner premium is not deducted correctly; and

"(iv) Interest from which RWT has been withheld at a rate other than the rate specified in Schedule 14, clause 1(b) of the Income Tax Act 1994 if that person's annual gross income exceeds $38,000; and

"(v) Income from employment being extra emoluments from which tax has been withheld at a rate other than the rate specified in Schedule 19, clause 8(b) of the Income Tax Act 1994 if that person's annual gross income exceeds $38,000; and

"(vi) Income from employment being secondary earnings from which tax has been withheld at a rate other than the rate specified in Schedule 19, clause (5A) of the Income Tax Act 1994 if that person's annual gross income exceeds $38,000; and

"(vii) Interest or dividends, if the person is required to pay financial support under the Child Support Act 1991; and

"(viii) Interest or dividends, if the person has an IRD loan balance (as defined in section 2 of the Student Loan Scheme Act 1992), other than a balance of nil on the last day of the income year, and income that is more than the student loan repayment threshold (as defined in section 2 of the Student Loan Scheme Act 1992) for that income year; and

"(ix) Salary or wages from employment as an election day worker; and

"(x) Attributed income, if the person has gross income of more than $38,000; and

"(xi) Interest or a dividend that—

"(A) Does not have a New Zealand source; and

"(B) Was subject to a withholding tax at source; and

"(c) Does not receive income from employment from which a tax deduction is made and the amount of the tax deduction is determined in whole or in part by a special

tax code certificate issued under section NC 14 of the Income Tax Act 1994; and

"(d) Is not issued a family certificate of entitlement for any part of the income year; and

"(e) Does not have a spouse who is issued with a family certificate of entitlement for any part of the income year; and

"(f) Or the spouse of the natural person, is not paid by the Chief Executive of the department for the time being responsible for the administration of the Social Security Act 1964 a family credit under section KD 2(4) of the Income Tax Act 1994 for which the amount of family credit abatement (under section KD 2(4) of the Income Tax Act 1994) is greater than nil; and

"(g) Is a person who in an income year has a nil IRD loan balance on the last day of the year, or who has a balance greater than nil, and is a person to whom paragraph (b)(viii) applies.

"(2) Subsection (1) does not apply to a natural person who, in an income year—

"(a) Is an absentee; or

"(b) Is a provisional taxpayer; or

"(c) Is not a cash-basis holder; or

"(d) Received a withholding payment; or

"(e) Received beneficiary income; or

"(f) Received gross income as a private domestic worker; or

"(g) Is required under section 44 to furnish a return of income; or

"(h) Made a net loss; or

"(i) Has an available net loss; or

"(j) Died; or

"(k) Held a certificate of exemption under section NF 9 at any time in that income year.

"(3) A person to whom subsection (2) applies for an income year is required to furnish a return of income for that year and is not a person to whom an income statement is required to be issued.

"(4) Subject to section 80D, the Commissioner will not issue an income statement to a person to whom subsection (1) applies.

"(5) The Commissioner must issue an income statement to a person to whom neither of section 33A(1) or (2) applies."

(2) Subsection (1) applies to the 1999–2000 and subsequent income years.

10 Power of Commissioner to prescribe forms

(1) In section 35, subsections (2) and (3)(b) are repealed.

(2) Subsection (1) comes into force on 1 April 1999.

11 Commissioner may approve furnishing of return information by electronic means

(1) After section 36(3)(b), the following is inserted:

"(ba) Paragraph (b) does not apply to an employer monthly schedule furnished electronically; and".

(2) Subsection (1) applies on and after 1 April 1999.

12 New sections inserted

(1) After section 36, the following are inserted:

"**36A Electronic format of employer monthly schedule and remittance certificate**

"(1) The Commissioner must prescribe one or more electronic formats in which an employer monthly schedule must be furnished by an employer that is required to furnish that schedule in an electronic format.

"(2) The Commissioner may prescribe one or more electronic formats in which a remittance certificate must be furnished by an employer that has elected to furnish that certificate in an electronic format.

"(3) A format prescribed under subsection (1) or (2) may relate to an employer or to a class of employer and is subject to the conditions specified by the Commissioner, whether generally or in a particular case.

"**36B Other formats of employer monthly schedule**

"(1) Despite section 36A(1), the Commissioner may authorise an employer that is required to furnish the employer monthly schedule in electronic format to furnish the schedule in a format that is not electronic if the employer's accounting system

is incapable of providing the employer monthly schedule in a prescribed electronic format.

"(2) For the purpose of subsection (1), an employer's accounting system is incapable of providing the employer monthly schedule in a prescribed electronic format if the Commissioner considers the cost likely to be incurred by the employer in furnishing it is material, having regard to—

"(a) The likely costs incurred by other employers in providing an employer monthly schedule in a prescribed electronic format; and

"(b) The additional administrative costs that are likely to be incurred by the Commissioner in processing an employer monthly schedule that is not provided in a prescribed electronic format; and

"(c) Whether in the preceding income year, the employer employed, on average, 100 or fewer employees on each day in the year; or

"(d) If the employer was not an employer in the preceding income year, whether the employer employs, on average, 100 or fewer employees on each day in the current income year.

"(3) For the purpose of subsection (2)(c) and (d), if during an income year an employer ceases one business and commences a new business or operates 2 or more businesses simultaneously, the number of employees of the employer is calculated as the total of the employees in all the businesses.

"(4) If an amalgamating company ceases to exist on an amalgamation, subsection (2)(c) and (d) apply from the date of the amalgamation as though the number of employees employed by the amalgamating company is the same as in the preceding year.

"(5) In subsection (2), the average number of employees must be calculated on the basis—

"(a) That an employee for part of a day is employed for the whole of that day; and

"(b) Of the number of employees employed on each day of the income year, or part income year if section 36B(2)(d) applies.

"(6) An authorisation under section 36B(1) is valid until the Commissioner gives notice cancelling it.

"(7) An authorisation cancelled by the Commissioner applies until the later of—

"(a) 1 April following the year in which cancellation is notified; or

"(b) Six months after the date cancellation is notified.

"(8) If the Commissioner is satisfied that the number of employees of an employer did not or will not exceed the number provided in subsection (2)(c) or (d), an employer does not have to make the calculation under subsection (2)(c) or (d).

"(9) If an employer is authorised not to furnish an employer monthly schedule electronically and employed an average of more than 50 employees but not more than 100 employees in the 1999–2000 income year,—

"(a) Subsection (7) does not apply; and

"(b) The authorisation under this section expires on the last day of the 1999–2000 income year.

"**36C Particulars furnished in electronic format**

"(1) In the application of any of sections 35, 36, 36A, or 36B, information that is required to be furnished electronically is not in a prescribed format unless it is furnished in an electronic format certified by the Commissioner as being the prescribed electronic format.

"(2) The production by the Commissioner of a document purporting to be a printed copy of a specification of an electronic format or a part of that specification, in all courts and in all proceedings (including proceedings before a Taxation Review Authority), is sufficient evidence that the electronic format was prescribed.

"**36D Non-electronic filing of employer monthly schedule**

An employer must furnish the particulars required to be included in an employer monthly schedule on the form supplied by the Commissioner if the employer—

"(a) Is not required to furnish an employer monthly schedule in a prescribed electronic format; and

"(b) Has not elected to do so under section 36E.

"**36E Election available to other employers**

An employer that is not required to furnish an employer monthly schedule electronically may elect to furnish that schedule in an electronic format prescribed by the Commissioner."

(2) Subsection (1) applies to employer monthly schedules, forms, and returns furnished on and after 1 April 1999.

13 Other formats of employer monthly schedule

(1) In section 36B(2)(c) and (d) as enacted by section 12, wherever it appears, "100" is replaced by "50".

(2) Subsection (1) applies to an employer monthly schedule that is required to be furnished on or after 1 April 2000.

14 Dates by which annual returns to be furnished

(1) Section 37(1)(a) is repealed.

(2) Section 37(6) is repealed.

(3) Subsections (1) and (2) apply to the 1999–2000 and subsequent income years.

15 Returns to annual balance date

(1) In section 38(1), "any taxpayer" is replaced by "a taxpayer (other than a taxpayer to whom section 33A applies)".

(2) Subsection (1) applies to the 1999–2000 and subsequent income years.

16 Section replaced

(1) Section 40 is replaced by—

"**40 General requirements for returns**

"(1) A return required to be furnished in writing must be—

"(a) Signed; and

"(b) Contain all the information and be accompanied by all the documents required under any of the Inland Revenue Acts.

"(2) A return furnished by electronic means must be—

"(a) Transmitted in an electronic format prescribed under either sections 36, 36A or 36B; and

"(b) Contain all the information and be accompanied by all the documents required under any of the Inland Revenue Acts.

"(3) A return that is subject to this section is treated as being furnished on the date it is received at an office of the department."

(2) Subsection (1) applies on and after 1 April 1999.

17 New section inserted

(1) After section 41, the following is inserted:

"**41A Returns by person claiming housekeeper or charitable rebates**

"(1) A person allowed a rebate under section KC 4 or section KC 5 of the Income Tax Act 1994 may apply to the Commissioner for one or more refunds.

"(2) The total amount of the refunds must not exceed the annual amount of the rebates allowed.

"(3) The sum of the qualifying payments under section KC 4 of the Income Tax Act 1994 and gifts under section KC 5 of the Income Tax Act 1994 must not exceed a taxpayer's taxable income in the immediately preceding income year.

"(4) If subsection (3) applies, the Commissioner must, in equal portions, reduce the total amount of qualifying payments and gifts so that the total does not exceed the taxpayer's taxable income in the immediately preceding income year.

"(5) An application under subsection (1) must be made in the manner required by the Commissioner, be signed by the person, and be accompanied by any information the Commissioner requires, including—

"(a) The amount of a payment that is a qualifying payment under section KC 4 of the Income Tax Act 1994; and

"(b) The amount of a gift to which section KC 5 of the Income Tax Act 1994 applies.

"(6) Despite subsection (1), the Commissioner must not refund a rebate unless an application that complies with subsections (2) and (3) is received by the Commissioner—

"(a) In the case of a taxpayer with a standard balance date, by the 30 September next following the end of the taxpayer's income year; or

"(b) In the case of other taxpayers, by the last day of the month that is the sixth month after the end of the taxpayer's accounting year.

"(7) When the Commissioner has considered an application for a rebate, the Commissioner must, by notice, inform the taxpayer of the amount of the rebates allowed under section KC 4 or section KC 5 of the Income Tax Act 1994 and of the amount of refund allowed.

"(8) No rebate may be refunded to an absentee, or a company, or a public authority, or a Maori Authority, or an unincorporated body, or a trustee assessable and liable for income tax under sections HH 3, HH 6, HK 14, or HZ 2 of the Income Tax Act 1994.

"(9) A refund allowed under subsection (1) must be paid as if it were tax paid in excess.

"(10) A refund allowed under subsection (1), to the extent it exceeds the correct amount of refund, is recoverable as an excess credit of tax under section 142D.

"(11) Part VII does not apply to a refund or an excess refund made under this section.

"(12) Part IX applies to applications made under this section."

(2) Subsection (1) applies to qualifying payments and gifts made in the 1999–2000 and subsequent income years.

18 Returns by executors or administrators

(1) After section 43(2), the following is inserted:

"(3) Part IIIA and section 33A(1) do not apply to a natural person who acts in the capacity of an executor or administrator of a deceased taxpayer."

(2) Subsection (1) applies on and after 1 April 1999.

19 Employers to make returns as to employees

(1) In section 46(1), subsection (1) is replaced by—

"(1) An employer must furnish an employer monthly schedule containing particulars of the persons employed by the employer in a month and of all salaries, wages, and other emoluments received in that month by each person employed."

(2) Subsections (2), (3), (4), and (5) are replaced by—

"(2) The Commissioner may vary the requirements to provide particulars of the commencement or cessation of employment in an employer monthly schedule, in relation to any employer or class of employer, and in the cases and to the extent that the Commissioner considers fit, and the requirements apply as varied.

"(3) No variation made by the Commissioner under subsection (2) may impose a more onerous requirement on an employer than is imposed by the employer monthly schedule.

"(4) An employer must consolidate into one employer monthly schedule the particulars that must be included in an employer monthly schedule for an employee who receives, between 1 April 1999 and 31 March 2000, a payment listed under subsection (5).

"(5) Subsection (4) applies to a payment of—

"(a) New Zealand superannuation; or

"(b) A veteran's pension; or

"(c) An income-tested benefit; or

"(d) Weekly compensation or compensation for loss of potential earning capacity payable under the Accident Rehabilitation and Compensation Insurance Act 1992; or

"(e) An allowance paid under regulations made under section 303 of the Education Act 1989; or

"(f) A credit of tax paid under Part KD of the Income Tax Act 1994.

"(5A) The employer must furnish the Commissioner with the consolidated employer monthly schedule on or before 5 April 2000.

"(5B) The particulars required under subsection (4) do not include the name, tax file number, or any other particular relating to child support or student loan deductions made."

(3) In subsection (6)—

(a) The portion before paragraph (a) is replaced by—

"(6) Nothing in the employer monthly schedule requires information in relation to—"; and

(b) Paragraph (c) is repealed.

(4) Subsections (1) to (3) apply on and after 1 April 1999.

20 Employer to furnish statement of specified superannuation contribution withholding tax

(1) In section 47(1)—

(a) In paragraph (c), "section NC 15(1)(c)" is replaced by "section NC 15(1)(c) or (d)"; and

(b) The words after paragraph (c) are replaced by—

"to the Commissioner a remittance certificate showing the amount of specified superannuation contribution and the amount of specified superannuation contribution withholding tax relating to that contribution and any other particulars the Commissioner may require."

(2) Section 47(2) is repealed.

(3) Subsections (1) and (2) apply on and after 1 April 1999.

21 Special arrangements for supply of information by employer to Commissioner

(1) In section 48(1), "certificate," is omitted.

(2) Subsection (1) applies on and after 1 April 1999.

22 New Part inserted

(1) After section 80, the following is inserted:

"Part 3A
"Income statements

"**80A Application**

"(1) This Part applies to a natural person who derives income from employment, or receives interest and dividends, and who—

"(a) Is a person to whom section 33A(5) applies; or

"(b) Is a person exempted under section 33A from the requirement to furnish an annual return of income or to be issued an income statement and who asks the Commissioner to issue an income statement under section 80C(4); or

"(c) Is a person exempted under section 33A from the requirement to furnish an annual return of income and is a person to whom an income statement is not required to be issued but who has been issued an income statement under section 80D(2).

"(2) This Part applies to the 1999–2000 and subsequent income years.

"**80B Notification required that taxpayer not subject to this Part**

"(1) A natural person who receives an income statement and who is not subject to this Part in an income year because the person derived income other than from employment, or received interest or dividends, or who is a person to whom section 33A(2) applies, must inform the Commissioner that the person is not (for that income year) subject to this Part.

"(2) The information required under subsection (1) from a person to whom section NC 17 applies must be received by the Commissioner no later than 7 February in the income year next following the income year to which the income statement refers.

"(3) The information from a person to whom section NC 17 does not apply must be received by the Commissioner no later than the person's terminal tax date for the income year to which the income statement refers.

"(4) An income statement to which section 80B(1) refers is to be regarded as not having been issued.

"**80C Natural person to request income statement**

"(1) A person to whom section 33A(5) refers and who has not received an income statement must request the Commissioner to issue an income statement.

"(2) A request required under subsection (1) from a person to whom section NC 17 applies must be received by the Commissioner no later than 7 February in the income year next following the income year to which the income statement relates.

"(3) The request required under subsection (1) from a person to whom section NC 17 does not apply must be received by the Commissioner no later than the person's terminal tax date for the income year to which the income statement refers.

"(4) A person to whom section 33A(1) applies may at any time after the end of the person's income year request the issue of an income statement relating to that year.

"**80D Commissioner must issue income statement**

"(1) For each income year, the Commissioner must issue an income statement to a person whom the Commissioner considers de-

rived income only from employment, interest or dividends; and who—

"(a) Is not a person to whom section 33A(1) applies; or

"(b) Is a person to whom section 33A(1) applies and who requests the Commissioner to issue an income statement.

"(2) Despite subsection (1), the Commissioner may issue an income statement to a person at any time if the Commissioner considers the person has received annual gross income in an income year.

"(3) The Commissioner may issue more than one income statement in respect of an income year to a person.

"**80E Particulars to be included in income statement**

"(1) An income statement issued under this Part must contain the information specified in subsection (2) to the extent that the information is applicable to the person's circumstances.

"(2) The information is—

"(a) The amount of a natural person's annual gross income that the Commissioner considers was derived from employment, interest, or dividends; and

"(b) The sources of the annual gross income in paragraph (a); and

"(c) The amounts of the source deductions or withholding deductions made in relation to the gross annual income; and

"(d) The amount of earner premium deducted in respect of the person; and

"(e) A calculation of the income tax liability of the person, including any tax payable or refund due; and

"(f) Any further particulars the Commissioner considers necessary.

"**80F Taxpayer obligations and assessment on receipt of income statement**

"(1) Unless subsection (4) applies, a person who receives an income statement that the person considers is incorrect must inform the Commissioner, not later than the date prescribed in subsection (2) or (3), of the reasons why the person considers the income statement is incorrect and provide the information

the taxpayer considers necessary to correct the income statement.

"(2) A person to whom section NC 17 applies must inform the Commissioner under subsection (1) by the later of—

"(a) 7 February in the income year next following the income year to which the income statement relates; or

"(b) The date that occurs 2 months after the date of issue of the income statement.

"(3) A person to whom section NC 17 does not apply must inform the Commissioner under subsection (1) by the later of—

"(a) The terminal tax date of the person for the income year to which the income statement relates; or

"(b) The date that occurs 2 months after the date of issue of the income statement.

"(4) A person is not required to inform the Commissioner of an amount of gross annual income from employment, interest, or dividends that is not included in the income statement unless the total amount is more than $200.

"(5) For the purpose of subsection (4), the amount of gross annual income from interest must not include an amount of interest in relation to which there was no requirement to prepare a RWT deduction certificate under section 25(7).

"(6) If the Commissioner accepts as correct the information given by the person under subsection (1), the Commissioner must issue another income statement that incorporates that information.

"(7) If the Commissioner does not accept as correct all the information given by the person under subsection (1), the Commissioner may issue to the person a further income statement or an assessment that includes those particulars in section 80E that the Commissioner accepts as being applicable to the person.

"**80G Income statement deemed return**

"(1) This section applies to a person to whom—

"(a) An income statement is required to be issued and who considers that the income statement correctly summarises the particulars listed in section 80E(2) that apply to that person:

"(b) An income statement is issued and who does not inform the Commissioner of the reasons why the person considers that the income statement is incorrect.

"(2) Except in sections 37 and 38, an income statement issued to a person to whom subsection (1) applies is deemed to be a return of income furnished by the person under section 33 and to be signed by the person.

"(3) Unless a taxpayer responds in the manner required under section 80F, each tax position taken in an income statement issued by the Commissioner is deemed to be a taxpayer's tax position.

"**80H Income statement deemed general assessment**

"(1) An income statement that is deemed to be a return of income under section 80G is also deemed, in respect of the income year to which it relates, to be a general assessment under section 92 as to the person's taxable income, the person's income tax liability, and the person's income tax payable or refund due.

"(2) If subsection (1) applies, section 111 does not apply.

"(3) Unless subsection (4) or (5) applies, a general assessment under subsection (1) is treated as being made on the earliest of—

"(a) 7 February in the income year that next follows the income year to which the income statement relates if section NC 17 of the Income Tax Act 1994 applies to the person; or

"(b) The person's terminal tax date for the income year to which the income statement relates; or

"(c) The 30th day after the date of issue of an income statement if the statement shows an amount of tax is overpaid and that amount does not exceed the amount specified in section MD 1(1A) of the Income Tax Act 1994; or

"(d) The date on which the person requests a refund of tax under section MD 1(1A) of the Income Tax Act 1994.

"(4) In the case of an income statement issued to a person to whom section NC 17 applies that is issued not more than 2 months before 7 February in the income year that next follows the in-

come year to which the income statement relates, a general assessment under subsection (1) is deemed to be made on the date that is 2 months after the date of issue of the income statement.

"(5) In the case of an income statement that is issued not more than 2 months before the terminal tax date of a person to whom section NC 17 does not apply, a general assessment under subsection (1) is deemed to have been made on the date that is 2 months after that income statement is issued.

"**80I Deemed matters**

"(1) This section applies to matters that are deemed to occur under this Part and to the income year in which the matters are deemed to occur.

"(2) A statement by the Commissioner that—

"(a) A return of income is deemed to be furnished; or

"(b) A return of income is deemed to have been signed by a taxpayer; or

"(c) A general assessment is deemed to have been made by the Commissioner—

is conclusive of whether an event referred to in this Part has occurred.

"(3) A matter referred to in subsection (2) may not be called into question in any challenge or other proceedings on the basis that—

"(a) A return of income has not been furnished; or

"(b) A taxpayer has not furnished a return of income; or

"(c) A taxpayer has not signed a return of income; or

"(d) The assessment is not final.

"(4) A matter required to be done or provided within the time limit for furnishing a return of income is deemed to be required to be done or provided within the time limit for responding to an income statement."

(2) Subsection (1) applies to the 1999–2000 and subsequent income years.

23 Officers to maintain secrecy

(1) In section 81(4)(l), in the words before the proviso, "or in such other manner as the Commissioner prescribes" is inserted after "in writing".

(2) In section 81(4), after paragraph (m), the following is added:

"(n) Communicating to a person who is an officer, employee, or agent of the department for the time being responsible for the administration of the Social Security Act 1964 information that the person is authorised by the Chief Executive of the department for the time being responsible for the administration of the Social Security Act 1964 to receive and that is communicated for the purpose of section 82A."

(3) Subsections (1) and (2) apply on and after 1 April 1999.

24 New section inserted

(1) After section 82, the following is inserted:

"**82A Disclosure of information to prevent cessation of benefit payments**

"(1) This section authorises the exchange of information between the Inland Revenue Department and the department for the time being responsible for the administration of the Social Security Act 1964 to ensure the provision of correct tax file numbers of beneficiaries so as to prevent the cessation of benefit payments.

"(2) For the purpose of subsection (1), an authorised officer or agent of the department for the time being responsible for the administration of the Social Security Act 1964 may give to the Commissioner any information about a beneficiary that is held by that department if the information may assist in identifying the beneficiary to the Inland Revenue Department.

"(3) A disclosure of information must not be made under subsection (2) until 10 working days after the department for the time being responsible for the administration of the Social Security Act 1964 requests, orally or in writing, a beneficiary to supply the beneficiary's tax file number and the beneficiary does not provide it to the department.

"(4) The Commissioner may compare the information referred to in subsection (2) with other information held by the Inland Revenue Department.

"(5) If, as a result of a comparison under this section, the beneficiary is identified, the Commissioner may supply the tax file number of the beneficiary to a person authorised under section 81(4)(n) to receive that information.

"(6) A tax file number provided by the Commissioner under subsection (5) may be used by the department for the time being responsible for the administration of the Social Security Act 1964 as if it were supplied by the beneficiary.

"(7) In this section, **authorised officer** (in relation to the department for the time being responsible for the administration of the Social Security Act 1964) has the same meaning as in section 82(9).

"(8) In this section—

"**Beneficiary** means a person who is receiving, or who has received, a benefit, and includes an applicant for a benefit

"**Beneficiary information**, in relation to a beneficiary, means information that—

"(a) Identifies the beneficiary; and

"(b) Identifies a benefit that the beneficiary is receiving, or has received, or for which the beneficiary has applied:

"**Benefit** includes an allowance paid pursuant to regulations made under section 303 of the Education Act 1989.

"(9) A secrecy obligation or other restriction imposed does not prevent the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 or an authorised officer of that department from receiving information disclosed by the Commissioner."

(2) Subsection (1) applies on the date on which this Act receives the Royal assent.

25 Notices of proposed adjustment required to be issued by Commissioner

(1) In section 89C(k), "taxpayer." is replaced by "taxpayer; or" and the following is added:

"(l) The assessment results from an income statement under Part IIIA."

(2) Subsection (1) applies to assessments made or deemed to be made on and after 1 April 1999.

26 Taxpayers and others with standing may issue notices of proposed adjustment

(1) Section 89D(2) is replaced by—

"(2) A taxpayer that has not furnished a return of income or, if Part IIIA applies, an amended income statement in respect of an assessment period, and who wishes to dispute an assessment may dispute the assessment only by furnishing a return of income or amended income statement in respect of the assessment period."

(2) Subsection (1) applies to assessments made on or after 1 April 1999.

27 Assessment where default made in furnishing returns

(1) After section 106(1), the following are inserted:

"(1A) Despite Part IIIA, if the Commissioner considers an income statement incorrectly summarises the particulars required by section 80E(2), the Commissioner may make an assessment of the amount on which the Commissioner considers tax ought to be imposed and of the amount of that tax.

"(1B) The tax assessed is payable unless the person to whom an assessment under this subsection relates furnishes a return or an amended income statement under section 89D(2) in respect of that assessment period.

"(1C) Subsection (1A) applies if a person to whom an income statement is issued does not inform the Commissioner of the reasons why the person considers the income statement is incorrect and provides the information the person considers necessary to correct the income statement by the date prescribed in section 80F."

(2) Subsection (1) applies to the 1999–2000 and subsequent income years.

28 Time bar for amendment of assessment of tax under Income Tax Act 1994

(1) After section 108(1), the following is inserted:

"(1A) Unless subsection (2) or section 108B applies, the Commissioner must not issue an income statement under Part IIIA if 4 years have passed since the end of the income year that follows the income year to which the income statement would apply."

(2) Subsection (1) applies to income statements issued in the 1999–2000 and subsequent income years.

29 Evidence of returns and assessments

(1) In section 110(1), "return or assessment" is replaced by "return, income statement, or assessment".

(2) In section 110(2), ", or section 36A," is inserted after "section 36".

(3) Subsections (1) and (2) apply to the 1999–2000 and subsequent income years.

30 Commissioner to give notice of assessment to taxpayer

(1) After section 111(1)(b), the following are inserted:

"(ba) The assessment is made after a failure by the taxpayer to comply with the taxpayer's obligations under section 80F; or

"(bb) An assessment is deemed to be made under Part IIIA; or."

(2) After section 111(6), the following is added:

"(7) If requested to do so, the Commissioner must give an assessment to a taxpayer who accepts under section 80F an income statement as correct."

(3) Subsections (1) and (2) apply to the 1999–2000 and subsequent income years.

31 Definitions

In section 120C(1)—

(a) In the definition of **Date interest starts**, in paragraph (b), insert the following:

"(iii) For a taxpayer to whom section 80D applies, the date on which the initial income statement is issued; and":

(b) In the definition of **Interest period**, in paragraph (b)(ii), "liability:" is replaced by "liability; and", and the following is added:

"(iii) The date on which the taxpayer can claim the refund, in the case of a taxpayer to whom section 80D applies and who has overpaid tax of $50 or more:".

32 Late filing penalties

(1) Section 139A(1) is replaced by—

"(1) This section applies to tax returns required to be furnished under sections 33, 41 to 44, and 79 (in this Part, **annual tax returns**), the reconciliation statement required to be provided under regulation 3 of the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992, and the employer monthly schedule required to be provided under section NC 15(1)(a) or (b) or (c) or (d) of the Income Tax Act 1994."

(2) In subsection (2), paragraph (a) is replaced by the following:

"(a) The taxpayer does not provide a completed annual tax return, reconciliation statement, employer monthly schedule on time; and".

(3) Subsection (4) is replaced by—

"(4) The late filing penalty for a reconciliation statement or employer monthly schedule is $250."

(4) In subsection (5), the portion before paragraph (a) is replaced by—

"(5) Except in the case of a late filing penalty resulting from an employer monthly schedule, the Commissioner must, not less than 30 days before imposing a late filing penalty—".

(5) Subsections (1) to (4) apply to an employer monthly schedule and a reconciliation statement in relation to tax deductions from source deduction payments made on or after 1 April 1999 and annual tax returns for the 1999–2000 and subsequent income years.

33 New section inserted

(1) After section 139A, the following is inserted:

"**139AA Non-electronic filing penalty**

"(1) This section applies to an employer that is required to comply in a prescribed electronic format with the requirements of section NC 15(1)(a) and (b) of the Income Tax Act 1994.

"(2) An employer is liable to a non-electronic filing penalty if the employer does not furnish the employer monthly schedule in a format that is prescribed.

"(3) Subsection (2) does not apply if the employer is authorised under section 36B(1) to furnish the employer monthly schedule in a format that is not prescribed.

"(4) The non-electronic filing penalty is the greater of $250 or $1 for each employee employed at any time during the month to which the employer monthly schedule relates."

(2) Subsection (1) applies to employer monthly schedules required to be furnished on and after 1 April 1999.

34 Due date for payment of late filing penalty

(1) In section 142(1)—

(a) In the words before paragraph (a), "The" is replaced by "Except in the case of an employer monthly schedule, the":

(b) Paragraph (a) is replaced by—

"(a) On the date determined under section NC 17(2) for tax returns to be furnished by employees; or":

(c) Paragraphs (c), (d), and (e) are replaced by—

"(c) For the reconciliation statement that is required by regulation 3 of the Accident Rehabilitation and Compensation Corporation Insurance (Earnings Definitions) Regulations 1992, the date by which the employer is required to furnish the reconciliation statement.":

(2) After section 142(1), the following is inserted:

"(1A) The due date for the payment of a late filing penalty in respect of an employer monthly schedule is—

"(a) The 5th day of the month next following the month in which the employer was required to furnish the employer monthly schedule for an employer to which section NC 15(1)(b) of the Income Tax Act 1994 applies; and

"(b) The 20th day of the month next following the month in which the employer was required to furnish the employer monthly schedule for an employer to which section NC 15(1)(c) or (d) applies."

(3) In section 142(2), "employer monthly schedule" is inserted after "annual tax return".

(4) Subsection (1)(a) applies on and after 1 April 1999.

(5) Subsection (1)(b) applies to an annual tax return required to be furnished by an employee for the 1997-98 and subsequent income years.

(6) Subsection (1)(c) applies to an annual tax return and reconciliation statements required to be furnished for the 1999–2000 and subsequent income years.

(7) Subsections (2) and (3) apply on and after 1 April 1999.

35 New section inserted

(1) After section 142F, the following is inserted:

"**142G Due date for payment of non-electronic filing penalty**

1A non-electronic filing penalty under section 139AA is due and payable on the 5th day of the month following the month in which the employer was required to furnish an employer monthly schedule in a prescribed electronic format."

(2) Subsection (1) applies to employer monthly schedules required to be furnished on and after 1 April 1999.

36 Absolute liability offences

(1) After section 143(3), the following is added:

"(4) In this section and in sections 143A and 143B, **tax return** includes an income statement."

(2) Subsection (1) applies on and after 1 April 1999.

37 Employer failing to make tax deductions

(1) In section 168(1), "paragraphs (a), (b), and (c)" are replaced by "paragraphs (a), (b), (c), and (d)".

(2) Subsection (1) applies on and after 1 April 1999.

38 Section 173 repealed

Section 173 (which relates to the overpayment of Family Credit of tax) is repealed.

39 Remission for reasonable cause

(1) Section 183A(1) is replaced by:

"(1) This section applies to a late filing penalty, a non-electronic filing penalty, a late payment penalty, and imputation penalty tax imposed by section 140B, and a dividend withholding payment penalty tax imposed by section 140C.

"(1A) The Commissioner may remit the penalty if the Commissioner is satisfied that—

"(a) A penalty to which this section applies arises as a result of an event or circumstance beyond the control of a taxpayer; and

"(b) As a consequence of that event or circumstance the taxpayer has a reasonable justification or excuse for not furnishing the tax return or an employer monthly schedule, or not furnishing an employer monthly schedule in a prescribed electronic format, or not paying the tax on time; and

"(c) The taxpayer corrected the failure to comply as soon as practicable."

(2) Subsection (1) applies to penalties that arise on and after 1 April 1999.

40 Remission consistent with collection of highest net revenue over time

(1) In section 183D(1), after paragraph (a), the following is inserted:

"(aa) A non-electronic filing penalty; and."

(2) Subsection (1) applies to penalties that arise on and after 1 April 1999.

41 New section inserted

(1) After section 184, the following is inserted:

"**184A Refund of tax paid in excess made by direct credit to bank account**

"(1) Unless subsection (3) applies, a refund of tax paid in excess must be made by direct credit to a bank account nominated by the taxpayer entitled to the refund.

"(2) When a taxpayer claims a refund, the taxpayer must provide to the Commissioner the particulars of a bank account in New Zealand to which a direct credit of the amount of the refund is to be made.

"(3) If the Commissioner is satisfied that the application of subsections (1) and (2) would result in undue hardship to a taxpayer, or is not practicable, a refund of tax paid in excess may be made by other means acceptable to the Commissioner.

"(4) In this section, **bank account** means an account with a bank that is a registered bank or a private savings bank or a credit union or a Building Society or the Public Service Investment Society Limited.

"(5) In this section, **tax** means—

"(i) An amount that is defined as tax in section 3(1):

"(ii) The approved issuer levy (as defined in section 86F of the Stamp and Cheque Duties Act 1971):

"(iii) Cheque duty (as provided for in section 77 of the Stamp and Cheque Duties Act 1971):

"(iv) Financial support (as defined in section 2(1) of the Child Support Act 1991):

"(v) If the borrower has elected a refund under section 56(1A) of the Student Loan Scheme Act 1992, a repayment obligation (as defined in section 2 of that Act)."

(2) Subsection (1) applies on and after 1 April 2000.

Part 2
Amendments to Income Tax Act 1994

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

42 Income Tax Act 1994

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

43 Meaning of term dividends

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

44 Exclusions from term dividends

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

45 Meaning of fringe benefit

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

46 New sections inserted

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

47 Year in which accident compensation levy and employer premium, etc deductible

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

48 Rules for calculating New Zealand group debt percentage

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

49 Concession for on-lending

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

50 Treatment of specified leases

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

51 Sale of trading stock for inadequate consideration

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

52 Group investment funds

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

53 Low income rebate

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

54 Rebate in certain cases for housekeeper

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

55 Rebate in respect of gifts of money

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

56 Determination of net income

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

57 Credit of tax by instalments

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

58 Chief Executive to deliver credit of tax

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

59 Tax deductions to be credited against tax assessed

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

60 Refund of excess tax

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

61 Amounts of tax deductions

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

62 Application of tax codes specified in tax code declarations or tax code certificates

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

63 New section inserted

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

64 Payment of tax deductions to Commissioner

[Repealed]

Subsection (1): the new section NC 15(1)(b): amended by section 124(2) Taxation Accrual Rules and Other Remedial Matters) Act 1999 (1999 No 59) by inserting the expression "of the Tax Administration Act 1994" with application as from 1 April 1999.

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

65 Employee to pay deductions to Commissioner

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

66 Assessment and payment of tax

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

67 Bond, etc in lieu of tax deductions in case of certain non-resident employees

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

68 New section inserted

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

69 Cancellation of certificates of exemption

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

70 Non-resident withholding tax to be minimum tax in certain cases

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

71 Definitions

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

72 Meaning of source deduction payment — shareholder-employees of close companies

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

73 Schedule 14 amended

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

74 Schedule 19 amended

[Repealed]

Part 2 (comprising sections 42 to 74): repealed, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Part 3
Amendments to Estate and Gift Duties Act 1968

75 Estate and Gift Duties Act 1968

This Part amends the Estate and Gift Duties Act 1968.

76 Refund of estate duty, penalty, and interest paid in excess

(1) After section 60(4), the following is added:

"(5) A refund under this section must be made in accordance with the requirements of section 184A of the Tax Administration Act 1994."

(2) Subsection (1) applies to refunds of estate duty, penalty, and interest paid in excess arising on and after 1 April 2000.

77 Refund of gift duty, penalty, and interest paid in excess

(1) After section 89(3), the following is added:

"(4) A refund made under this section must be made in accordance with the requirements of section 184A of the Tax Administration Act 1994."

(2) Subsection (1) applies to refunds of gift duty, penalty, and interest paid in excess arising on and after 1 April 2000.

Part 4
Amendment to Gaming Duties Act 1971

78 Gaming Duties Act 1971

This Part amends the Gaming Duties Act 1971.

79 Refund of duty or interest paid in error or in excess

(1) After section 13(2), the following is added:

"(3) A refund under this section must be made in accordance with the requirements of section 184A of the Tax Administration Act 1994."

(2) Subsection (1) applies to duty or interest paid in excess on and after 1 April 2000.

Part 5
Amendments to Stamp and Cheque Duties Act 1971

80 Stamp and Cheque Duties Act 1971

This Part amends the Stamp and Cheque Duties Act 1971.

81 Refund of duty or penalty on application

(1) In section 68, the following is inserted:

"(1) If at any time within 8 years after payment of any stamp duty or penalty or within such further time if written application for the refund of the duty or penalty is made by the person entitled to it within that 8 years, the Commissioner may refund the duty or penalty if the Commissioner is satisfied that—

"(a) The duty or penalty was paid in error or in excess of the amount properly payable; or

"(b) The duty or penalty was paid on an instrument which on its execution was not a fully operative instrument, and that the instrument failed to become fully operative and was cancelled or destroyed, and that the failure was not due to the act, omission, or default of the person by whom the duty or penalty was paid or to the act, omission, or default of any other person with the consent, acquiescence, connivance, or concurrence of the person by whom the duty or penalty was paid; or

"(c) The duty or penalty was paid on an instrument of conveyance or a lease which was not carried into effect, whether directly or indirectly, in favour of the person to whom the conveyance is made or the lessee or any person claiming under the person to whom the conveyance is made or the lessee, and was rescinded; or

"(d) The duty or penalty was paid on an instrument that was inadvertently spoiled, defaced, lost, or destroyed, and that another instrument made in substitution for it between the same parties and for the same purpose was executed and stamped."

(2) Subsection (1) applies to every instrument of conveyance executed, every bill of exchange made, drawn, or prepaid under sections 81 to 83 of the principal Act and every liable transaction entered into on or after 1 April 1997.

82 Refund of cheque duty

(1) Section 85 is amended by renumbering the current provision as subsection (1); and adding the following:

"(2) A refund under subsection (1) must be made in accordance with the requirements of section 184A of the Tax Administration Act 1994."

(2) Subsection (1) applies to refunds of cheque duty arising on and after 1 April 2000.

83 Refund of levy paid in error or in excess

(1) After section 86L(1), the following is inserted:

"(1A) A refund under subsection (1) must be made in accordance with the requirements of section 184A of the Tax Administration Act 1994."

(2) Subsection (1) applies to levies paid in error or in excess on and after 1 April 2000.