Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003

Public Act 2003 No 122
Date of assent 25 November 2003

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003.

2 Commencement

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

(2) Section 142 is treated as coming into force on 1 July 1994.

(3) Sections 59(2) and 62(2) are treated as coming into force on 20 December 1994.

(4) Section 104 is treated as coming into force on 1 April 1995.

(5) Sections 60(1) and 63(1) are treated as coming into force on 26 July 1996.

(6) Section 124 is treated as coming into force on 1 October 1996.

(7) Sections 46(2), 131 and 138 are treated as coming into force on 1 April 1998.

(8) Section 16(a) is treated as coming into force on 1 July 1999.

(9) Section 16(b) is treated as coming into force on 1 April 2002.

(10) Sections 121 and 122 are treated as coming into force on 17 October 2002.

(11) Sections 23, 95(20), 95(33), 107(1) to (3), 129, 130, 135, 136 and 172 are treated as coming into force on 26 March 2003.

(12) Sections 19, 36 to 38, 41 to 43(1), 44, 45, 46(3), 47 to 58, 79, 87, 92, 95(1), 95(3), 95(7), 95(8), 95(12) to (15), 95(26), 95(28), 95(31), 95(34), 96, 99(1), 106, 109 to 112, 114, 128 and 132 are treated as coming into force on 1 April 2003.

(13) Sections 146(5), 146(6) and 150(2) are treated as coming into force on 1 July 2003.

(14) Section 174(2) to (4) are treated as coming into force on 1 August 2003.

(15) Sections 43(2) and 88 are treated as coming into force on 1 October 2003.

(16) Section 174(1) comes into force on the 1st day of the month that immediately follows the month in which this Act receives the Royal assent.

(17) Sections 69 to 76 come into force on 15 January 2004.

(18) Sections 77(3), 80 to 83, 100(2) and (3) come into force on 1 April 2004.

(19) Sections 140(2), 141, 143(2), 145, 146(2), 146(3), 147, 148, 149(5), 149(6), 149(8), 154(2), 155, 156, 157(1), 158, 160, 164(1) to (3), 164(6) and 165 come into force on a date that is the first day of a January, April, July or October and is not less than 1 year after the day on which this Act receives the Royal assent and is to be appointed by the Governor-General by Order in Council.

Part 1
Amendments to Income Tax Act 1994

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

3 Income Tax Act 1994

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

4 Non-profit bodies' and charities' exempt income

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

5 Certain pensions, benefits, and other compensation exempt

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

6 Other exempt income

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

7 Exclusions from term dividends

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

8 Persons not required to calculate attributed foreign income and loss

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

9 Attribution of income and losses using branch equivalent method

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

10 New section CG 7B inserted

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

11 Meaning of fringe benefit

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

12 Value of fringe benefit

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

13 Government grants to businesses

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

14 Expenditure by group investment fund

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

15 Limitation of deduction for certain film expenditure to amount at risk

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

16 Year in which non-competitive levies and premiums under Accident Insurance Act 1998 or Injury Prevention, Rehabilitation, and Compensation Act 2001 payable

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

17 Cost of producing films

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

18 New subpart S inserted into Part E

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

19 New subpart DB inserted into Part F

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

20 Group investment funds

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

21 Gross income assessable to beneficiaries

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

22 Trustee income

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

23 Consequences of change in entity status for purpose of Maori authority rules

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

24 No offset in calculating some schedular income tax liabilities

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

25 Net loss offset between group companies

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

26 Rebate for gifts of money

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

27 Calculation of Part KD credit

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

28 Calculation of family tax credit

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

29 Rates for interim instalments for period ending on or after 1 July 1998

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

30 New section KD 7B inserted

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

31 Foreign tax credits—controlled foreign companies

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

32 Tax deductions to be credited against tax assessed

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

33 Underlying foreign tax credits generally, and interpretation

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

34 Refund of overpaid provisional tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

35 Payments to be set off within wholly-owned group

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

36 Tax pooling account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

37 Transfers from tax pooling account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

38 Section MBB 9 replaced

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

39 Refund of excess tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

40 Limits on refunds of tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

41 Application of income tax or dividend withholding payments not refunded

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

42 New section MD 5 inserted

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

43 New sections ME 1B and 1C inserted

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

44 Credits arising to imputation credit account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

45 Debits arising to imputation credit account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

46 Further tax payable where end of year debit balance, or when company ceases to be imputation credit account company

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

47 Heading replaced

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

48 Consolidated group to maintain separate imputation credit account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

49 Credits arising to imputation credit account of group

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

50 Debits arising to imputation credit account of group

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

51 Debiting and crediting between consolidated group and individual companies

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

52 Application of specific imputation provisions to consolidated groups

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

53 Credits and debits arising to policyholder credit account of company

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

54 Use of credit balance to credit against company's policyholder base income tax liability, or transfer of credit balance to company's imputation credit account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

55 Determinations by Commissioner as to credits and debits arising to policyholder credit account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

56 Credits and debits arising to group policyholder credit account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

57 Application of policyholder credit account provisions to consolidated group, etc

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

58 Debits and credits arising to imputation credit account or policyholder credit account on amalgamation

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

59 Credits and debits arising to branch equivalent tax account of company

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

60 Credits and debits arising to branch equivalent tax account of company

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

61 Use of credit to reduce dividend withholding payment or use of debit to satisfy income tax liability

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

62 Debits and credits arising to group branch equivalent tax account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

63 Debits and credits arising to group branch equivalent tax account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

64 Use of consolidated group credit to reduce dividend withholding payment, or use of group or individual debit to satisfy income tax liability

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

65 Credits arising to dividend withholding payment account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

66 Further dividend withholding payment payable by company

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

67 Credits arising to group dividend withholding payment account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

68 Debiting and crediting between group and individual dividend withholding payment accounts

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

69 Purpose

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

70 Accreditation requirements of PAYE intermediaries

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

71 Approval by Commissioner of employer arrangements with PAYE intermediary

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

72 Responsibilities and status under PAYE rules of employer in arrangement with PAYE intermediary

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

73 Responsibilities and status under PAYE rules of PAYE intermediary in arrangement with employer

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

74 Operation of trust account

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

75 Section NBB 7 replaced

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

76 Termination of employer arrangements with PAYE intermediary

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

77 Applications of tax codes specified in tax code declarations or tax code certificates

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

78 Applications of other provisions to amounts payable under PAYE rules

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

79 Definition of cash remuneration

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

80 Specified superannuation contribution withholding tax imposed

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

81 Employee election that specified superannuation contributions be subject to higher rate of specified superannuation contribution withholding tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

82 New section NE 2AB inserted

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

83 Section NE 3 replaced

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

84 Payment period

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

85 Failure to deduct tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

86 Section NE 6 replaced

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

87 Application of RWT rules

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

88 Deduction of resident withholding tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

89 Refunds of deductions

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

90 Certificates of exemption

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

91 Non-resident withholding tax deducted in error

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

92 Amount of dividend withholding payment to be deducted

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

93 Payment and recovery of dividend withholding payment, etc

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

94 Application of specific dividend withholding payment provisions to consolidated groups

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

95 Definitions

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

96 Meaning of source deduction payment—shareholder employees of close companies

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

97 Modifications to measurement of voting and market value of interests in case of continuity provisions

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

98 Determination of residence of company

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

99 References to particular regimes in former Act, etc

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

100 Schedule 1—Basic rates of income tax and specified superannuation contribution withholding tax

[Repealed]

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

101 Schedule 12—Amount that, for purposes of section KD 5(6), is deemed to be equivalent of an annual amount *[Repealed]*

Part 1 (sections 3 to 101) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Part 2
Amendments to Tax Administration Act 1994

102 Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

103 Interpretation

(1) In section 3(1), "to which the property is subject" is omitted from the defined term **registration Act to which the property is subject**.

(2) In section 3(1), the following is inserted after the definition of **specified dividends**:

"**standard-cost household service** means a service that is a standard-cost household service under a determination that is made by the Commissioner under section 91AA".

104 Giving of notices

(1) After section 14(1)(b), the following is inserted:

"(bb) sent to the person by post addressed to the person at a place given by the person as an address for communications in writing; or".

(2) In section 14(1)(d), "business." is replaced by "business; or" and the following is added:

"(e) sent to that other person by post addressed to the person or that other person at a place given by that other person as an address for communications in writing."

105 Information to be furnished on request of Commissioner

(1) Section 17(1B) is replaced by the following:

"(1B) For the purpose of subsection (1), information or a book or document is treated as being in the knowledge, possession or control of a New Zealand resident if—

"(a) the New Zealand resident controls, directly or indirectly, a non-resident; and

"(b) the information or book or document is in the knowledge, possession or control of the non-resident."

(2) In section 17(1C)—

(a) "and sections 143(2) and 143A(2)" is inserted after "subsection (1B)":

(b) "held by", in both places that it appears in paragraph (a)(i), is replaced by "in the knowledge, possession or control of".

106 Shareholder dividend statement to be provided by company

After section 29(1), the following is inserted:

"(1B) An Australian imputation credit account company must use, in a shareholder dividend statement, the term **New Zealand imputation credit** to describe the quantity referred to in subsection (1)(g)."

107 Annual returns of income not required

(1) After section 33A(1)(a)(iii), the following is inserted:

"(iiib) a taxable Maori authority distribution; or".

(2) Section 33A(1)(a)(iv), as inserted by section 90(1) of the Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003, is repealed.

(3) In section 33A(1)(a)(iv), as inserted by section 75(2) of the Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002, "subparagraphs (i) to (iii)" is replaced by "subparagraphs (i) to (iiib)".

(4) After section 33A(2)(c), the following is inserted:

"(cb) received a total of more than $200 of gross income that included—

"(i) a withholding payment, not being an amount or proportion of a withholding payment in respect of which the Commissioner has made a determination under regulation 7 of the Income Tax (Withholding Payments) Regulations 1979:

"(ii) interest or a dividend that did not have a New Zealand source and from which a withholding tax was not deducted at source:

"(iii) beneficiary income; or".

(5) Section 33A(2)(d), (e) and (g) are repealed.

(6) Section 33A(2)(h) is repealed.

(7) Subsections (1) to (3) apply for the 2004-05 and subsequent income years.

(8) Subsections (4) and (5) apply for the 2002-03 and subsequent income years.

(9) Subsection (6) applies for the 2003-04 and subsequent income years.

108 New section 33B inserted

After section 33A, the following is inserted:

"**33B Return not required for certain scheduler gross income**

A natural person who derives scheduler gross income in an income year from providing a standard-cost household service is not required to furnish a return of income for the scheduler gross income if the person's scheduler income tax liability for the income year in respect of the scheduler gross income is zero and is calculated using no figure for an allowable deduction incurred by the taxpayer in providing the standard-cost household service that is not—

"(a) a figure that has been determined by the Commissioner under section 91AA of the Tax Administration Act 1994 to be appropriate for the taxpayer; or

"(b) calculated using a method that has been determined by the Commissioner under section 91AA of the Tax Administration Act 1994 to be appropriate for the taxpayer."

109 Non-active companies may be excused from filing returns

(1) In section 43A(4), "that is resident in New Zealand" is inserted after "A company".

(2) In section 43A(5), "that is resident in New Zealand" is inserted after "A company".

110 Employer to furnish statement of specified superannuation contribution withholding tax

(1) In section 47(1), "or PAYE intermediary" is inserted after "Every employer".

(2) In section 47(1)(a), "or PAYE intermediary" is inserted after "where the employer".

(3) In section 47(1)(b), "or PAYE intermediary" is inserted after "where the employer".

(4) In section 47(1)(c), "or PAYE intermediary" is inserted after "where the employer".

(5) Subsections (1) to (4) apply for pay periods beginning on and after 1 April 2004.

111 Company dividend statement when imputation credit account company declares dividend

After section 67(1)(e), the following is inserted:

"(eb) if the dividend was paid in Australian currency by an Australian imputation credit account company, the exchange rate between the New Zealand dollar and the Australian dollar that was used to calculate the imputation ratio:".

112 Annual imputation return

(1) In section 69(1), the words before paragraph (a) are replaced by:

"An imputation credit account company must furnish to the Commissioner an annual imputation return in the prescribed form for each imputation year, showing—".

(2) After section 69(1), the following is added:

"(1B) The annual imputation return required by subsection (1) must be furnished to the Commissioner not later than—

"(a) the last day of the July that next follows the imputation year, if the imputation credit account company is an Australian imputation credit account company that is not required to file a return of income for the income year that corresponds to the imputation year:

"(b) the last day on which the imputation credit account company is permitted by section 37 to file a return of

income for the income year that corresponds to the imputation year, otherwise."

113 Imputation return to be furnished where Commissioner so requires or where company ceases to be an imputation credit account company

(1) The heading to section 70 is replaced by "**Imputation return to be furnished if: required by Commissioner; requirement for imputation credit account ceases; or balance retrospectively reduced to debit or to less than refund**".

(2) After section 70(2), the following is inserted:

"(2B) An imputation credit account company or consolidated imputation group that is affected by a refund or transfer relating to an amount in a tax pooling account, and occurring after the end of an imputation year, must furnish to the Commissioner a revised return for the imputation year within 2 calendar months of the date of the refund or transfer if, as a result of the application of section ME 5(2)(ec) or ME 12(2)(db) of the Income Tax Act 1994, the refund or transfer causes the balance of the imputation credit account of the company or group for the end of the imputation year to become—

"(a) a debit balance:

"(b) a balance that is less than the amount of a refund that the company would anticipate receiving but for section MD 2 of the Income Tax Act 1994."

114 Annual imputation return to be furnished in respect of consolidated groups

(1) In the heading to section 74, "consolidated groups" is replaced by "consolidated imputation group".

(2) The words before paragraph (a) of section 74 are replaced by the following:

"(1) A nominated company for a consolidated imputation group must, subject to subsection (2), comply in respect of the group with sections 69 and 70 as if—".

(3) In section 74(b), "consolidated group ceasing to exist" is replaced by the following:

"consolidated imputation group—

"(i) ceasing to be a consolidated imputation group; or

"(ii) ceasing to be an imputation group and becoming a consolidated group that is a consolidated imputation group; or

"(iii) ceasing to be a consolidated group that is a consolidated imputation group and becoming an imputation group".

(4) In section 74(c), "consolidated groups" is replaced by "a consolidated imputation group".

(5) The following is added to section 74:

"(2) The nominated company for a resident imputation subgroup is not required to furnish an annual imputation return under section 69 in respect of the group for an imputation year if the group has no liability to make a payment under section ME 14(3) for the imputation year."

115 Commissioner must issue income statement

(1) Section 80D(1) is replaced by the following:

"(1) For each income year, the Commissioner must issue an income statement to a person who the Commissioner considers—

"(a) derived in the income year gross income that was—

"(i) income from employment:

"(ii) interest:

"(iii) dividends; and

"(b) did not derive in the income year any gross income that is not referred to in paragraph (a); and

"(c) is a person—

"(i) to whom section 33A(1) does not apply:

"(ii) to whom section 33A(1) does apply and who requests the Commissioner to issue an income statement:

"(iii) to whom section 33A(1) does apply and who is required by section NC 16 of the Income Tax Act 1994 to furnish the Commissioner with an employer monthly schedule relating to a source deduction payment that the person derived in the income year."

(2) Subsection (1) applies for the 2003-04 and subsequent income years.

116 Income statement deemed assessment

(1) Section 80H(2) is repealed.

(2) In section 80H(3), "or (5)" is replaced by "or (6)".

(3) Subsection (2) applies for the 2002-03 and subsequent income years.

117 Officers to maintain secrecy

(1) After section 81(4)(e), the following is inserted:

"(eb) communicating to a person who is an employee of the Department of Internal Affairs or the Ministry of Health information that—

"(i) the person is authorised by the Department or Ministry to receive; and

"(ii) the Commissioner considers is not undesirable to disclose and is essential to enable the person to carry out any duty lawfully conferred on the person relating to the determination of the problem gambling levy rate:".

(2) Section 81(4)(n), as inserted by section 23(2) of the Taxation (Simplification and Other Remedial Matters) Act 1998, is repealed and the following is added:

"(o) communicating, for the purpose of section 82A, information 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 and who is authorised to receive the information by the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964:"

(3) After section 81(4)(o), as inserted by subsection (2), the following is inserted:

"(p) communicating, for the purpose of section 85F, information to a person who is an officer, employee, or agent of the New Zealand Film Commission responsible for the administration of the large budget screen production grant scheme and who is authorised to receive the information by the Chief Executive of the New Zealand Film Commission."

118 New section 85F inserted

(1) After section 85E, the following is inserted:

"**85F Disclosure of information for verification of large budget screen production grant entitlement**

"(1) The purpose of this section is to facilitate the exchange of information between the Commissioner and the Commission for the purpose of providing to the Commission information which the chief executive considers necessary to enable the Commission to determine the entitlement of a company to a large budget screen production grant.

"(2) For the purposes of subsection (1), on request from the chief executive, the Commissioner may, at any time, provide to any authorised officer of the Commission all of the following information that is held by the Department:

"(a) particulars relating to the amount of expenditure incurred in relation to a film that is the subject of an application for a large budget screen production grant:

"(b) particulars relating to the amount of expenditure incurred in New Zealand in relation to a film that is the subject of an application for a large budget screen production grant:

"(c) the Commissioner's opinion as to the accuracy of any information provided by an applicant in relation to the application for a large budget screen production grant:

"(3) In this section—

"**chief executive** means the person appointed under section 13(1) of the New Zealand Film Commission Act 1978

"**Commission** means the New Zealand Film Commission established by section 3 of the New Zealand Film Commission Act 1978

"**company** means a company to which the definition of large budget screen production grant in section OB 1 of the Income Tax Act 1994 refers

"**large budget screen production grant** is defined in section OB 1 of the Income Tax Act 1994.

"(4) If any of the information specified in subsection (2) is not held by the Department, the Commissioner may use any of the Commissioner's powers that are contained in Part 3 of this Act to obtain information."

(2) Subsection (1) applies on and after the day on which this Act receives the Royal assent.

119 Further secrecy requirements

(1) In section 87(5)(c), "information." is replaced by "information; or".

(2) After section 87(5)(c), the following paragraph is added:

"(d) being a person who is an officer, employee, or agent of the New Zealand Film Commission responsible for the administration of the large budget screen production grant scheme and is authorised to receive information provided under section 85F."

(3) Subsections (1) and (2) apply on and after the day on which this Act receives the Royal assent.

120 New section 91AA inserted

After section 91, the following is inserted:

"**91AA Determinations in relation to standard-cost household service**

"(1) For the purpose of the Inland Revenue Acts, the Commissioner may determine that a service is a standard-cost house hold service if—

"(a) the activity of providing the service is carried on by taxpayers who are natural persons; and

"(b) the activity of providing the service requires the use of each taxpayer's domestic accommodation in activities that commonly occur in a family household; and

"(c) the Commissioner considers that the determination would result in a significant reduction in compliance costs for providers of the service without inappropriate—

"(i) risk to the revenue of the Crown:

"(ii) demands on the resources of the Commissioner as a result of the administrative and enforcement duties that would be associated with the determination:

"(iii) inaccuracy, for a significant number of providers, of any determination by the Commissioner of the costs of providing the service.

"(2) For the purpose of calculating the income tax liability of natural persons who derive gross income in an income year from a standard-cost household service, the Commissioner may determine for the income year and the standard-cost household service—

"(a) requirements for the exemption under section CB 9(h) of income that a taxpayer derives from providing the standard-cost household service:

"(b) a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by a taxpayer in deriving exempt income from providing the standard cost household service:

"(c) a method that a taxpayer may use to calculate a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by a taxpayer in deriving exempt income from providing the standard-cost household service:

"(d) a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by a taxpayer in deriving gross income from providing the standard-cost household service:

"(e) a method that a taxpayer may use to calculate a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by the taxpayer in deriving gross income from providing the standard-cost household service:

"(f) requirements for the application of a determination under paragraphs (a) to (e).

"(3) A taxpayer who in an income year derives gross income from providing a standard-cost household service may, in calculating the taxpayer's income tax liability for the income year, elect to use a figure for a cost or costs or a method of calculating such a figure that the Commissioner has determined under subsection (2) to be appropriate for the taxpayer.

"(4) A taxpayer who makes an election under subsection (3) to use a figure or method must not use, in calculating the taxpayer's income tax liability for the income year, any figure for an additional cost of providing the standard-cost household service

if the figure or method in the Commissioner's determination relates to a type of cost that includes the additional cost.

"(5) If the Commissioner is satisfied that a determination that is made under this section should be varied or rescinded, or restricted or extended in scope, the Commissioner may make a fresh determination that varies, rescinds, restricts or extends that determination.

"(6) A determination that is made by the Commissioner under this section must be published in the *Gazette* within 30 days of the making of the determination.

"(7) A determination that is made by the Commissioner under this section may apply for income years that are specified in the determination."

121 Commissioner to make private rulings on request

In section 91E(4)(j), "generally accepted accounting principle" is replaced by "generally accepted accounting practice".

122 Commissioner may make product rulings

In section 91F(4)(h), "generally accepted accounting principle" is replaced by "generally accepted accounting practice".

123 Assessment of qualifying company election tax and late payment penalty

(1) In section 94(2), in paragraph (a), "additional tax" is replaced by "late payment penalty".

(2) Subsection (1) applies to late payment penalties that arise with respect to the 1997-98 and subsequent income years.

124 Assessment of non-resident withholding tax

In section 100(2), "on objection" is replaced by "in proceedings challenging the assessment".

125 Assessment where default made in furnishing returns

(1) In section 106(1B), "this subsection" is replaced by "subsection (1A)".

(2) Section 106(1B) is replaced by the following:

"(1B) Tax assessed under subsection (1A) in respect of a person is payable by the person unless the person disputes the assessment and complies with the requirements of section 89D."

(3) Subsection (1) applies for the 1999-2000 to 2001-02 income years.

(4) Subsection (2) applies for the 2002-03 and subsequent income years.

126 Definitions

(1) In section 120C(1), in paragraph (b)(iii) of the definition of **interest period**, "has overpaid tax of $50 or more" is replaced by "is required by section MD 1(1A) of the Income Tax Act 1994 to confirm an income statement as correct before the Commissioner may make the refund to the taxpayer".

(2) Subsection (1) applies to refunds that arise from income statements that—

(a) are issued on or after 15 May 2003; and

(b) relate to the 2002-03 or a subsequent income year.

127 Certain rights of objection not conferred

In section 125(d), "CB 5(1)(g) and (i)" is replaced by "CB 5(1)(g)"

128 Late filing penalties

(1) In section 139A(1), "the annual imputation return required to be furnished under section 69(1) and (1B)(a) by an Australian imputation credit account company that is not required to furnish a return of income for an income year," is inserted before "the reconciliation statement".

(2) Section 139A(2)(a), is replaced by the following:

"(a) the taxpayer does not complete and provide on time—

"(i) an annual tax return:

"(ii) an annual imputation return required to be furnished under section 69(1) and (1B)(a):

"(iii) a reconciliation statement:

"(iv) an employer monthly schedule; and".

(3) In section 139A(4), "a" is replaced by "an annual imputation return or".

(4) In section 139A(5), "annual imputation return or" is inserted before "employer monthly schedule".

129 Promoter penalties

(1) In section 141EB(4)(b), "taken the tax position that the arrangement produced" is replaced by "taken a tax position under which the arrangement is treated as producing":

(2) Subsection (1) applies to arrangements entered into on and after 26 March 2003.

130 Reduction of penalties for previous behaviour

Section 141FB(2)(b)(i) is repealed.

131 New section 141FC inserted

(1) After section 141FB, the following is inserted:

"**141FC Loss attributing qualifying companies-reduction of shortfall penalties**

"(1) This section applies if, as a consequence of the attribution of a net loss for an income year by a loss attributing qualifying company to a shareholder of the company and the subsequent disallowance of one or more deductions, shortfall penalties are imposed on the company and a shareholder of the company.

"(2) If a loss attributing qualifying company to which this section applies pays in full the amount of a shortfall penalty referred to in subsection (1) and the shareholder gives a written notice to the Commissioner, requesting the application of this section, a shortfall penalty imposed on the shareholder must be reduced by the lesser of—

"(a) the amount of the shortfall penalty imposed on the shareholder, before the application of this section; and

"(b) the amount given by the following formula:

$$a \times \left(\frac{b}{c}\right)$$

where—

a is the amount of the shortfall penalty imposed on the company:

b is the amount of the net loss that was attributed to the shareholder by the company:

c is the amount of the net loss for the income year that was attributed to shareholders by the company.

(2) Subsection (1) applies to shortfall penalties imposed on and after 1 April 1998.

132 Due date for payment of late filing penalty

In section 142(1)(c), "reconciliation statement." is replaced by "reconciliation statement; or" and the following is added:

"(d) for an annual imputation return required to be furnished under section 69(1) and (1B)(a) by an Australian imputation credit account company that is not required to furnish a return of income for an income year, the date by which the company is required to furnish the annual imputation return."

133 Absolute liability offences

Section 143(2) is replaced by the following:

"(2) No person may be convicted of an offence against subsection (1)(b) for not providing information (other than tax returns and tax forms) to the Commissioner if the person proves that, as and when the person was required by the Commissioner to provide the information—

"(a) the person did not have the information in the person's knowledge, possession or control; and

"(b) no non-resident, who under section 17(1C) was controlled directly or indirectly by the person, had the information in the non-resident's knowledge, possession or control."

134 Knowledge offences

Section 143A(2) is replaced by the following:

"(2) No person may be convicted of an offence against subsection (1)(b) for knowingly not providing information (other than tax returns and tax forms) to the Commissioner if the person proves that, as and when the person was required by the Commissioner to provide the information—

"(a) the person did not have the information in the person's knowledge, possession or control; and

"(b) no non-resident, who under section 17(1C) was controlled directly or indirectly by the person, had the information in the non-resident's knowledge, possession or control."

135 Recovery of excess tax credits allowed

In section 165A(2), "of the Income Tax Act 1994" is inserted after "sections LC 3, LC 4(11) and LD 1(6)".

136 Recovery of tax deductions from employers or PAYE intermediaries

(1) After section 167(2), the following is inserted:

"(2B) This section applies to a person instead of an employer if—

"(a) the person is acting as a PAYE intermediary for the employer in relation to an employee and a pay period; and

"(b) the employer, for the pay period, has—

"(i) paid to the person the salary or wages relating to the employee as required by section NBB 4(1)(b) of the Income Tax Act 1994:

"(ii) provided the information required by the person as required by section NBB 4(1)(d) of the Income Tax Act 1994.

"(2C) For the purpose of applying this section to a person acting as a PAYE intermediary, a reference to an 'employer' is to be read as a reference to a 'person acting as a PAYE intermediary'."

(2) Section 167(3) and (4), as inserted by section 142(2) of the Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003, are repealed.

(3) Subsections (1) and (2) apply for pay periods beginning on and after 1 April 2004.

137 Unpaid tax deductions, etc, to constitute charge on employer's property

(1) Section 169(3) to (5) are replaced by the following:

"(3) Despite section 23(b) of the Personal Property Securities Act 1999, if a charge affects property of a particular kind and the

provisions of a registration Act applicable to the property provide for the registration of charges or security interests over property of that kind, the Commissioner may have particulars of that charge recorded on the register without payment of any fee.

"(4) Particulars recorded under subsection (3) are to operate and take priority according to the provisions of the applicable registration Act.

"(4B) If a mortgage that affects the same property is registered before the registration of the charge under this section and money secured by the mortgage is advanced after the registration of the charge under this section, the charge has priority over the mortgage in respect of that money.

"(5) On the satisfaction of a registered charge, the Commissioner must release the charge in the manner required by the Act under which it was registered, with such modifications as may be necessary, and without being required to pay a fee."

(2) In section 169(9), "and the order shall be subject to stamp duty accordingly;" is omitted.

(3) Section 169(11) is replaced by the following:

"(11) In this section, registration Act, in relation to any property, includes—

"(a) the Statutory Land Charges Registration Act 1928, in every case where the property is land or an interest in land (including a mortgage):

"(b) the Personal Property Securities Act 1999."

138 New section 181C inserted

After section 181B, the following is inserted:

"**181C Remission of late payment penalties and interest incurred due to obligation to pay further income tax**

"(1) This section applies to a company that is liable—

"(a) under section ME 9(1) of the Income Tax Act 1994 to pay an amount of tax by way of further income tax of an amount equal to a debit balance in the company's imputation credit account at the end of an imputation year; and

"(b) under section 139B to pay a late payment penalty on unpaid income tax that relates to a payment due in the imputation year.

"(2) The Commissioner must remit any interest under section 120D payable by the company and the late payment penalty relating to the further income tax, to the extent that the amount of further income tax charged in relation to that imputation year is equal to or is less than the amount of unpaid income tax referred to in subsection (1)(b)."

Part 3
Amendments to other Acts

Amendments to Goods and Services Tax Act 1985

139 Goods and Services Tax Act 1985

Sections 140 to 169 amend the Goods and Services Tax Act 1985.

140 Interpretation

(1) This section amends section 2(1).

(2) In the definition of **goods**, "or money" is replaced by ", money or a product that is transmitted by a non-resident to a resident by means of a wire, cable, radio, optical or other electromagnetic system or by means of a similar technical system".

(3) After the definition of **non-profit body**, the following is inserted:

"**non-resident** means a person to the extent that the person is not resident in New Zealand".

141 Meaning of associated persons

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

"(bb) a person, or a branch or division of the person that is treated as a separate person under section 56B, and another branch or division of the person that is treated as a separate person under section 56B:".

142 Meaning of term financial services

In section 3(3)(c), "(as defined in section 2(1) of the Companies Amendment Act 1964)" is replaced by "(as defined in section 121A of the Land Transfer Act 1952)".

143 Meaning of input tax

(1) Section 3A(2)(b)(i) is replaced by—

"(i) is a non-resident; and".

(2) Section 3A(2)(c) is replaced by the following:

"(c) the goods are acquired for the principal purpose of making taxable supplies and—

"(i) the taxable supplies are not charged with tax at the rate of 0% under section 11 A(1)(q) or (r); or

"(ii) the taxable supplies are charged with tax at the rate of 0% under section 11A(1)(q) or (r) and the goods have never, before the acquisition, been owned or used by the registered person or by a person associated with the registered person."

144 Meaning of term supply

(1) After section 5(7), the following is inserted:

"(7B) For the purposes of this Act, a local authority is treated as supplying goods and services to a person if the local authority requires a contribution from the person as—

"(a) a financial contribution that is a condition of a resource consent under the Resource Management Act 1991:

"(b) a development contribution under the Local Government Act 2002.

"(7C) For the purposes of this Act, a person who makes a contribution to a local authority is treated as supplying goods and services to the local authority to the extent that the contribution consists of land and is—

"(a) a financial contribution that is a condition of a resource consent under the Resource Management Act 1991:

"(b) a development contribution under the Local Government Act 2002."

(2) Subsection (1) applies to a financial contribution that is a condition of a resource consent under the Resource Management Act 1991 if—

(a) the requirement for the contribution is imposed on or after the day on which this Act receives the Royal assent:

(b) the requirement for the contribution is imposed on or after 1 October 1991, and before the day on which this Act receives the Royal assent, and the local authority treated—

(i) the contribution as being made in relation to a taxable supply; and

(ii) the taxable supply as being charged with tax at a rate other than 0%.

(3) Subsection (1) applies to a development contribution under the Local Government Act 2002 if the requirement for the contribution is imposed on or after the day on which this Act receives the Royal assent.

145 New section 5B inserted

After section 5, the following is inserted:

"**5B Supply of certain imported services**

For the purpose of the definition of output tax and sections 8(1), 15, 15A, 19A, 20(4), 20B, 25AA, 51, 52, 57, 75, 76(6), 78B, 78BA and 78C, a supply of services that is treated by section 8(4B) as being made in New Zealand is treated as being made by the recipient of the supply in the course or furtherance of a taxable activity carried on by the recipient.".

146 Imposition of goods and services tax on supply

(1) In section 8(2), (3) and (4), "not resident in New Zealand" is replaced by "a non-resident".

(2) After section 8(4), the following is inserted:

"(4B) Despite subsection (2), a supply of services that is not treated as being made in New Zealand by subsections (3)(b) and (4) is treated as being made in New Zealand if—

"(a) the services are supplied by a non-resident to a resident; and

"(b) the recipient of the supply—

"(i) does not, in the 12-month period that ends with the month in which the supply of the services is made, make supplies of which at least 95% in total value are taxable supplies; and

"(ii) does not at the time of the supply have reasonable grounds for believing that the recipient of the supply will, in the 12-month period that begins with the month in which the supply of the services is made, make supplies of which at least 95% in total value are taxable supplies; and

"(c) the supply would be a taxable supply if made in New Zealand by a registered person in the course or furtherance of a taxable activity carried on by the registered person.

"(4C) An allocation of costs by a non-resident to a resident is treated as being a supply of services that satisfies section 8(4B)(a) and (c), and the amount provided to the non-resident by the resident under the allocation is treated as being the consideration for the supply."

(3) In section 8(5), "Subsections (3) and (4)" is replaced by "Subsections (3), (4) and (4B)".

(4) In section 8(6), "not resident in New Zealand" is replaced by "a non-resident".

(5) In section 8(8), "a telecommunications supplier who is not resident in New Zealand" is replaced by "a non-resident".

(6) Section 8(9) is replaced by the following:

"(9) For the purposes of subsection (6) and section 11AB, the person who initiates a supply of telecommunications services is the person who—

"(a) is identified by the supplier of the services as being—

"(i) the person who controls the commencement of the supply:

"(ii) the person who pays for the services:

"(iii) the person who contracts for the supply; and

"(b) if more than 1 person satisfies paragraph (a), is the person who appears highest on the list in that paragraph."

147 Time of supply

In section 9(2)(a)(iii), "performed:" is replaced by "performed, unless subparagraph (iv) applies; and" and the following is inserted:

"(iv) in the case of a supply of services that is treated by section 8(4B) as being made in New Zealand, at the end of the taxable period that includes the date that is 2 months after the first balance date of the recipient that follows the completion of the performance of the services:".

148 Value of supply of goods and services

(1) In section 10(3), "subsections (3A)" is replaced by "subsections (3A), (3B), (3C), (3D)".

(2) Section 10(3A) is replaced by the following:

"(3A) Subsection (3) does not apply to a supply if—

"(a) the recipient acquired the supply for the principal purpose of making taxable supplies; and

"(b) the recipient is entitled to make a deduction under section 20(3) in respect of the supply, or would be entitled to make such a deduction if—

"(i) the amount of the deduction were determined under section 3A(3)(e) instead of under section 3A(3)(a):

"(ii) there were consideration for the supply:

"(iii) the supplier were a registered person who had complied with the requirements of the Act; and

"(c) the supply is not a supply of financial services to which subsection (3B) applies.

"(3B) If a supply of financial services is charged with tax at a rate of 0% under section 11A(1)(q) or (r) or gives rise to a deduction for the supplier under section 20C—

"(a) subsection (3) does not apply to the supply; and

"(b) the consideration for the supply is treated as being the open market value of the supply if—

"(i) the supply is made by a person for consideration that is more than the open market value of the supply; and

"(ii) the supplier and the recipient are associated persons.

"(3C) Subsection (3) does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand if—

"(a) the amount of the consideration for the supply is a deduction under the Income Tax Act 1994 for the recipient of the supply; or

"(b) the amount of the consideration for the supply would have been a deduction under the Income Tax Act 1994 for the recipient of the supply if the recipient had given any consideration for the supply.

"(3D) Subsection (3) does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand if—

"(a) the recipient of the supply is a branch or division that is treated by section 56B as being a separate person; and

"(b) the amount of the consideration for the supply would have been a deduction under the Income Tax Act 1994 for the branch or division if—

"(i) the branch or division were entitled to deductions under the Income Tax Act 1994:

"(ii) the branch or division had given any consideration for the supply.

"(3E) The value of a supply of services that is treated by section 8(4B) as being made in New Zealand is the amount that, before the addition of the tax charged, is equal to the amount of the consideration for the supply."

(3) After section 10(15B), the following is inserted:

"(15C) If a non-resident makes a supply of services to a resident who is a member of the same group of companies under section IG 1 of the Income Tax Act 1994 as the supplier, or who is treated by section 56B as being a separate person from the supplier, and the supply is treated by sections 5B and 8(4B) as being made in New Zealand by the recipient of the supply, the value of the supply is determined as if the consideration for the supply did not include—

"(a) the amount of the consideration for the supply that represents salary or wages paid to an employee of—

"(i) the non-resident:

"(ii) a company that is in a wholly-owned group with the non-resident under section IG 1 of the Income Tax Act 1994; and

"(b) the amount of the consideration for the supply that represents interest incurred by—

"(i) the non-resident:

"(ii) a company that is in a wholly-owned group with the non-resident under section IG 1 of the Income Tax Act 1994."

149 Zero-rating of services

(1) After section 11A(1)(c), the following is inserted:

"(cb) the services, including ancillary activities such as loading, unloading, handling and storing, are the transport of household goods from a place in New Zealand to another place in New Zealand, if—

"(i) the services are supplied to a person who, at the time of the supply, is non-resident and outside New Zealand; and

"(ii) the goods are entered for home consumption under the Customs and Excise Act 1996; and

"(iii) the arrangement for the supply of the services is made before the goods are entered; and

"(iv) the services are reasonably expected to be completed within the period of 28 days that begins on the date of entry of the goods; or".

(2) In section 11A(1)(d), "paragraphs (a) to (c)" is replaced by "paragraphs (a) to (cb)".

(3) In section 11A(1)(k), (1) and (ma)(ii), "not resident in New Zealand" is replaced by "a non-resident".

(4) Section 11A(1)(m) is replaced by the following:

"(m) the services are supplied—

"(i) directly in connection with goods, the supply of which was subject to any one of section 11(1)(a) to (e); and

"(ii) to a recipient who, when the services are performed, is a non-resident and outside New Zealand; or".

(5) In section 11A(1)(p), "New Zealand." is replaced by "New Zealand; or" and the following is inserted:

"(q) the services are financial services that are supplied in respect of a taxable period, by a registered person who has made an election under section 20F, to a registered person who makes supplies of goods and services such that taxable supplies that are not charged with tax at the rate of 0% under this paragraph

or under paragraph (r) make up not less than 75% of the total value of the supplies in respect of—

"(i) a 12-month period that includes the taxable period; or

"(ii) a period acceptable to the Commissioner; or

"(r) the services are financial services that are supplied in respect of a taxable period, by a registered person who has made an election under section 20F, to a person who is a member of a group of companies for the purposes of section IG 1 of the Income Tax Act 1994 and—

"(i) the members of the group make supplies of goods and services to persons who are not members of the group in respect of—

"(A) a 12-month period that includes the taxable period; or

"(B) a period acceptable to the Commissioner; and

"(ii) not less than 75% of the total value of the supplies referred to in subparagraph (i) consists of taxable supplies that are not charged with tax at the rate of 0% under this paragraph or under paragraph (q)."

(6) After section 11A(1), the following is inserted:

"(1B) Subsection (1)(j) does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand unless the nature of the services is such that the services are physically received at—

"(a) the time and place at which the services are physically performed; and

"(b) no other time or place."

(7) In section 11A(2) and (4), "not resident in New Zealand" is replaced by "a non-resident".

(8) After section 11A(4), the following is added:

"(5) The availability of a deduction under subsection (1)(q) and (r) must be determined using a method allowed by section 20E."

(9) Subsections (1) and (2) apply to supplies made on or after the day on which this Act receives the Royal assent.

150 Zero-rating of telecommunications services

(1) In section 11AB(a), "resident in New Zealand" is replaced by "who is a resident".

(2) In section 11AB(b), "person outside New Zealand" is replaced by "person".

151 Zero-rating of supply by territorial authority

(1) In the heading to section 11B, "supply by territorial authority" is replaced by "some supplies by territorial authorities, some supplies involving contributions to local authorities".

(2) After section 11B(1), the following is added:

"(1B) If a supply under section 5(7B) of goods and services by a local authority to a registered person is chargeable with tax under section 8, the supply must be charged at the rate of 0% to the extent that the contribution made by the registered person to the local authority consists of land.

"(1C) If a supply under section 5(7C) of goods and services by a person to a local authority is chargeable with tax under section 8, the supply must be charged at the rate of 0% if the local authority is a registered person."

(3) Subsection (2) applies to contributions that are made on or after the day on which this Act receives the Royal assent.

152 Exempt supplies

(1) Section 14(3) is replaced by the following:

"(3) An amount is treated as being consideration for an exempt supply if it is—

"(a) penalty or default interest, or a charge in the nature of penalty or default interest, that is imposed—

"(i) under a contract for the supply of goods and services:

"(ii) under an enactment:

"(b) a penalty imposed on unpaid rates under the Local Government (Rating) Act 2002:

"(c) a postponement fee, or a part of a postponement fee, that is imposed under section 88 of the Local Government (Rating) Act 2002 and that relates to financial costs of the local authority arising from a postponement of rates."

(2) Subsection (1) applies to an amount of penalty, interest, charge or fee that is imposed on or after 1 July 2003.

153 Other returns

In section 18, "and 19 of this Act" is replaced by "and 19B".

154 Calculation of tax payable

(1) In the words before section 20(2)(a), "and no deduction calculated under section 25(2)(b) or (5)" is inserted after "input tax".

(2) In section 20(2)(c), "relates:" is replaced by "relates; or" and the following is inserted:

"(d) the supply is a supply of services that is treated by section 5B as being made by the recipient and the recipient has accounted for the output tax charged in respect of the supply:".

(3) In section 20(3)(a)—

(a) in the words before subparagraph (i), "amount of input tax—" is replaced by "amount of the following:":

(b) in subparagraph (i), "input tax" is inserted before "in relation to":

(c) in subparagraph (ia), "input tax" is inserted before "in relation to":

(d) in subparagraph (ii), "input tax" is inserted before "invoiced or paid":

(e) subparagraph (iii) is replaced by the following:

"(iii) any amount calculated in accordance with any one of sections 25(2)(b), 25(5), 25AA(2)(b) or 25AA(3)(b); and".

(4) In section 20(3)(b)—

(a) in the words before subparagraph (i), "amount of input tax—" is replaced by "amount of the following:":

(b) in subparagraph (i), "input tax" is inserted before "in relation to":

(c) in subparagraph (ii), "input tax" is inserted before "paid":

(d) in subparagraph (iii), "input tax" is inserted before "in relation to":

(e) subparagraph (iv) is replaced by the following:

"(iv) any amount calculated in accordance with any one of sections 25(2)(b), 25(5), 25AA(2)(b) or 25AA(3)(b), to the extent that a payment has been made in respect of that amount; and"

(5) In paragraphs (iii) and (iva) of the proviso to section 20(3)(d), "not resident in New Zealand" is replaced by "a non-resident".

(6) In section 20(3)(g), "period:" is replaced by "period; and" and the following is inserted:

"(h) any amount calculated in accordance with section 20C in relation to supplies of financial services in respect of that taxable period:

"(i) any amount calculated in accordance with section 26:".

(7) In section 20(4)(b)—

(a) in subparagraph (i), "or 25(4); or" is replaced by "25(4) and is not treated by section 8(4B) as being made in New Zealand; or" and the following is inserted:

"(ib) to the extent that payment for the supply has been made during the taxable period, if the supply is a supply of services that is treated as being made in New Zealand by section 8(4B) together with any one of sections 9(1), 9(3)(a), 9(3)(aa), 9(6), 9(8), 25AA(2)(a) or 25AA(3)(a); or:"

(b) subparagraph (ii) is replaced by the following:

"(ii) if the supply of goods and services is made during the taxable period by the registered person and neither of subparagraphs (i) and (ib) applies."

155 New sections 20C to 20F inserted

After section 20B, the following is inserted:

"**20C Goods and services tax incurred in making certain supplies of financial services**

Subject to this section, a registered person who has made an election under section 20F and who in respect of a taxable period supplies financial services to another supplier of financial services (called in this section a **direct supplier**) may make for each direct supplier a deduction under section 20(3)(h) of an amount given by the following formula:

$$a \times \frac{b}{c} \times \frac{d}{e}$$

where—

a is the total amount that the registered person would be able to deduct under section 20(3), other than under section 20(3)(h), in respect of the taxable period if all sup-

plies of financial services by the registered person were taxable supplies:

b is the total value of exempt supplies of financial services by the registered person to the direct supplier in respect of the taxable period:

c is the total value of supplies by the registered person in respect of the taxable period:

d is the total value of taxable supplies by the direct supplier in respect of the taxable period, determined under section 20D:

e is the total value of supplies by the direct supplier in respect of the taxable period, determined under section 20D.

"**20D Determining availability of deduction under section 20C from supplies by another person**

If a person makes a return that includes a figure for a deduction under section 20C based on the value of supplies made by the person to other persons, the availability of the deduction under section 20C for supplies made by the person to each other person must be determined on the basis of the statistics of the supplies made by the other person.

"**20E Determining supplies charged at 0% under section 11A(1)(q) and (r) from supplies by another person**

If a person makes a return that includes a figure for the value of supplies charged with tax at a rate of 0% under section 11A(1)(q) and (r), that are made by the person to other persons, the effect of section 11A(1)(q) and (r) for supplies made by the person to each other person must be determined—

"(a) on the basis of the statistics of the supplies made by the other person; or

"(b) using a method that is approved by the Commissioner.

"**20F Election that sections 11A(1)(q) and (r) and 20C apply**

"(1) A registered person may give written notice to the Commissioner of an election that the registered person be subject to sections 11A(1)(q) and (r) and 20C.

"(2) An election under subsection (1)—

"(a) applies for the taxable period in which the Commissioner receives the notice and for subsequent taxable periods until the election is cancelled:

"(b) is cancelled from the end of the taxable period—

"(i) in which the registered person ceases to have a taxable activity, if subparagraphs (ii) and (iii) do not require an earlier cancellation; or

"(ii) that is nominated in a written notice of cancellation that the Commissioner receives from the registered person, if the notice of cancellation nominates a taxable period after which the cancellation is to be effective; or

"(iii) in which the Commissioner receives from the registered person a written notice of cancellation, if the notice of cancellation does not nominate a taxable period after which the cancellation is to be effective."

156 Timing of deduction under section 21F

(1) In section 21G(1A), "and subject to subsection (1B)" is inserted after "Despite subsection (1)".

(2) After section 21G(1A), the following is inserted:

"(1B) Subsection (1A) does not apply to a registered person if the goods referred to in section 21E are applied for a different purpose as a consequence of a change in this Act."

157 Application to make single deduction under section 21F

(1) Section 21H(2) is replaced by the following:

"(2) Subsection (1) does not apply to goods and services that—

"(a) cost less than $18,000:

"(b) are applied for a different purpose as a consequence of a change in this Act."

(2) In section 21H(3)(d), "section 21" is replaced by "section 21(1)".

(3) Subsection (2) applies to goods and services treated as being supplied on and after 10 October 2000.

158 New section 24B inserted

After section 24, the following is inserted:

"**24B Records to be kept by recipient of imported services**

A registered person who receives a supply of services that is treated by section 8(4B) as being made in New Zealand must maintain sufficient records of the supply to enable the following particulars to be ascertained:

"(a) the name and address of the supplier:

"(b) the date on which, or the period during which, the supply was received:

"(c) a description of the services supplied:

"(d) the consideration for the supply:

"(e) the time by which payment of the consideration for the supply is required:

"(f) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(a):

"(g) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(b)."

159 Credit and debit notes

(1) In section 25(2)(b), "deduction of input tax" is replaced by "deduction".

(2) In section 25(5), "deduction of input tax pursuant to" is replaced by "deduction under".

160 New section 25AA inserted

After section 25, the following is inserted:

"**25AA Consequences of change in contract for imported services**

"(1) Despite section 25, this section applies in relation to a supply of services by a non-resident that is treated by sections 5B and 8(4B) as being made in New Zealand by the recipient of the supply if—

"(a) any one of the following is satisfied:

"(i) the supply of services has been cancelled:

"(ii) the nature of the supply of services has been fundamentally varied or altered:

"(iii) the previously agreed consideration for the supply of services has been altered, whether due to the offer of a discount or otherwise:

"(iv) the services or part of the services supplied have been returned to the non-resident; and

"(b) an incorrect return has been made for the taxable period for which output tax on the supply is attributable.

"(2) A person who has accounted for an incorrect amount of output tax must make an adjustment to the calculation of tax payable in the return for the taxable period in which it becomes apparent that the amount of output tax was incorrect, and if the output tax properly charged on the supply is—

"(a) more than the output tax actually accounted for by the person, the amount of the excess is treated as being tax charged in relation to a taxable supply made by the person:

"(b) less than the output tax actually accounted for by the person, the amount of the deficiency is a deduction under section 20(3) for the person.

"(3) A person who has accounted for an incorrect amount of deductions must make an adjustment to the calculation of tax payable in the return for the taxable period in which it becomes apparent that the amount of deductions was incorrect, and if the deduction properly resulting from the supply is—

"(a) less than the deduction actually claimed by the person, the amount of the deficiency is treated as being tax charged in relation to a taxable supply made by the person:

"(b) more than the deduction actually claimed by the person, the amount of the excess is a deduction under section 20(3) for the person."

161 Commissioner's right to withhold payments

(1) Section 46(6) to (9) are replaced by the following:

"(6) If, but for this subsection, a registered person would be entitled to an amount as a refund under section 19C(8) or 20(5) or 45 or under the Tax Administration Act 1994, or as a payment of interest under Part 7 of the Tax Administration Act 1994, the Commissioner may apply the amount, in accordance with

a request under section 173T of the Tax Administration Act 1994 or in the absence of a request in such order or manner as the Commissioner may determine, in payment of—

"(a) tax that is payable by the person:

"(b) an amount that is payable by the person under another Inland Revenue Act.

"(7) If, but for this subsection, a person who is a specified agent of an incapacitated person, as those terms are defined in section 58(1), would be allowed an amount as a deduction under section 20(3) by virtue of section 58(1C), the Commissioner may apply the amount in payment of—

"(a) tax that is payable by the incapacitated person:

"(b) an amount that is payable by the incapacitated person under another Inland Revenue Act."

(2) Subsection (1) applies to refunds, interest and deductions relating to supplies made in taxable periods beginning on or after 1 April 2002.

162 Persons making supplies in course of taxable activity to be registered

In section 51(1)(e), "not resident in New Zealand" is replaced by "non-residents".

163 Cancellation of registration

(1) In section 52(2), "in writing" is replaced by "by notice in writing or by telephone".

(2) In section 52(3), "notify the Commissioner of that fact" is replaced by "inform the Commissioner of that fact by notice in writing or by telephone".

(3) Section 52(4) is replaced by the following:

"(4) Any information provided by a registered person to the Commissioner under subsection (3) must include the date on which the person ceased to carry on all taxable activities and whether or not the person intends to carry on any taxable activity within 12 months from that date."

164 Group of companies

(1) In section 55(7), "Where any companies" is replaced by "Subject to subsection (7B), where any companies".

(2) In section 55(7)(d), in both places where it occurs, "by or to" is replaced by "by".

(3) After section 55(7)(da), the following is inserted:

"(dab) subject to paragraph (c), any supply of goods and services to a member of the group is a supply to the representative member; and".

(4) In section 55(7)(db)—

(a) "acquired or produced or" is inserted before "applied by any member" ; and

(b) "subsequently" is omitted; and

(c) "first-mentioned" is replaced by "acquisition or production or".

(5) In section 55(7)(dc), "subsequently" is omitted.

(6) After section 55(7), the following is inserted:

"(7B) Subsection (7), apart from paragraphs (b) and (e) to (h), does not apply to a group of companies in relation to a supply of services that is treated by section 8(4B) as being made in New Zealand."

165 New section 56B inserted

After section 56, the following is inserted:

"**56B Branches and divisions in relation to certain imported services**

"(1) This section applies to a supply of services that is treated by section 8(4B) as being made in New Zealand.

"(2) If a person carries on activities both inside and outside New Zealand through branches or divisions—

"(a) each branch or division is treated as being a separate person; and

"(b) a branch or division inside New Zealand is treated as being a resident; and

"(c) a branch or division outside New Zealand is treated as being a non-resident; and

"(d) an activity earned on by a branch or division is treated as being carried on separately by the branch or division.

"(3) For the purpose of this section, a head office of a company is a branch or division of the company.

"(4) This section applies whether or not a branch or division of the person is registered under section 56."

166 Personal representative, liquidator, receiver, etc

(1) In section 58(1C), "section 46(8)" is replaced by "section 46(7)".

(2) Subsection (1) applies to deductions relating to supplies made in taxable periods beginning on or after 1 April 2002.

167 Agents and auctioneers

(1) In section 60(6)(a) and (7)(a), "not resident in New Zealand" is replaced by "a non-resident".

(2) In section 60(7)(b), "resident in New Zealand" is replaced by "a resident".

168 Effect of imposition or alteration of tax

After section 78(5), the following is added:

"(6) This section does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand."

169 New section 84B inserted

After section 84, the following is inserted:

"**84B Supplies of services made before insertion of section 8(4B)**

"(1) This section applies to a supply of services that is treated by section 8(4B) as being made in New Zealand if—

"(a) the supply has a time of performance under section 84(1) to (1B) that is, or would be if the supply were made by a registered person, before the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force and—

"(i) the supply would, but for this section, be treated by section 9 or sections 21 to 21H as taking place on or after that date; and

"(ii) the value of the supply is ascertainable; or

"(b) the supply has a time of performance under section 84(1) to (1B) that is, or would be if the supply were made by a registered person, on or after the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force and the supply would, but for this section, be treated by section 9 or sections 21 to 21H as taking place before that date.

"(2) A supply of services that satisfies subsection (1)(a) is made at the time given by section 9 or sections 21 to 21H.

"(3) A supply of services that satisfies subsection (1)(b) is made at the time given by—

"(a) section 9 or sections 21 to 21H, for the purpose of section 8:

"(b) the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force, for the purpose of section 20.

"(4) A payment that is in respect of a supply that satisfies subsection (1)(b), and is made or received by a person before the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force, is treated for the purpose of section 20(3)(b)(i) and (4)(b)(i) as having been made or received by the person on that date."

Amendment to Personal Property Securities Act 1999

170 Personal Property Securities Act 1999

Section 171 amends the Personal Property Securities Act 1999.

171 When Act does not apply

In section 23(b), "(other than section 169 of the Tax Administration Act 1994 and sections 169 and 184 of the Child Support Act 1991)" is inserted after "Act".

Amendment to Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003

This heading was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

172 Definitions

[Repealed]

Section 172 was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Amendments to Gaming Duties Act 1971

173 Interpretation

(1) In the definition of special investments in section 3 of the Gaming Duties Act 1971, as that section read before being amended by section 69(1) of the Racing Act 2003, "(excluding GST)" is inserted after "total amount".

(2) Subsection (1) applies for the purpose of sections 4(3)(b) and 4(4)(a) and (b) of the Gaming Duties Act 1971 for the period from 1 January 1996 to 31 July 2003.

174 Totalisator duty

(1) In section 4(2) of the Gaming Duties Act 1971, the formula is replaced by the following:

"

8/9 x (amounts - refunds - winning dividends - fractions)

(2) In section 4(3) of the Gaming Duties Act 1971, "(excluding GST)" is inserted after "total of all amounts".

(3) In section 4(3)(a) of the Gaming Duties Act 1971, "including GST" is replaced by "excluding GST".

(4) In section 4(3)(b) of the Gaming Duties Act 1971, "(excluding GST, if any)" is inserted after "dividends".

Amendment to Gambling Act 2003

175 Schedule 9-Amendments to other Acts

In Schedule 9 of the Gambling Act 2003, the item amending the definition of lottery in section 3 of the Gaming Duties Act

1971 is amended by replacing the definition of New Zealand lottery with the following:

"**lottery** means a New Zealand lottery as that term is defined in section 4(1) of the Gambling Act 2003".

Legislative history

l8 November 2003	Divided from Taxation (Annual Rates, GST, Trans Tasman Imputation and Miscellaneous Provisions) Bill (Bill 60-2) as Bill 60-3A
19 November 2003	Third reading