

**Reprint
as at 1 April 2018**



**Taxation (Business Tax, Exchange of Information, and
Remedial Matters) Act 2017**

Public Act 2017 No 3
Date of assent 21 February 2017
Commencement see section 2

Contents

		Page
1	Title	8
2	Commencement	8
Part 1		
Exchange of information		
Subpart 1—Amendments to Income Tax Act 2007		
3	Income Tax Act 2007 amended	8
4	Section BH 1 amended (Double tax agreements)	8
5	Section HC 11 amended (Foreign trusts)	9
6	Section HC 26 amended (Foreign-sourced amounts: resident trustees)	9
7	Section YA 1 amended (Definitions)	10
Subpart 2—Amendments to Tax Administration Act 1994		
8	Tax Administration Act 1994 amended	10
9	Section 3 amended (Interpretation)	10
10	Section 22 amended (Keeping of business and other records)	12
11	Section 59B replaced (Disclosure of foreign trust particulars)	13

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Inland Revenue Department.

	59B	Foreign trust with resident foreign trustee: registration and disclosure	13
	59C	Time limits for registration and disclosure of changes	15
	59D	Annual return for foreign trust	16
	59E	Fees: regulations and exemption	17
12		Section 81 amended (Officers to maintain secrecy)	17
13		Section 89C amended (Notices of proposed adjustment required to be issued by Commissioner)	17
14		New heading and sections 91AAU to 91AAW inserted	17
		<i>Determinations relating to foreign account information-sharing agreements</i>	
	91AAU	Participating jurisdictions for CRS applied standard	18
	91AAV	Suspension of reportable jurisdictions for CRS applied standard	18
	91AAW	Non-reporting financial institutions and excluded accounts for CRS applied standard	18
15		Section 94A amended (Assessment of shortfall penalties)	19
16		New section 94C inserted (Assessment of penalties under sections 142H and 142I)	19
	94C	Assessment of penalties under sections 142H and 142I	19
17		New sections 142H and 142I inserted	19
	142H	Failures of financial institutions to meet requirements under Part 11B and CRS applied standard	19
	142I	Failures to meet requirements under Part 11B to provide information, including self-certifications	20
18		Section 143 amended (Absolute liability offences)	22
19		Section 143A amended (Knowledge offences)	22
20		Section 185E amended (Purpose)	22
21		New heading inserted after section 185E	22
22		Section 185F amended (Permitted choices in relation to foreign account information-sharing agreements)	22
23		Section 185G amended (Obligations related to foreign account information-sharing agreements: registration)	22
24		Section 185H amended (Obligations related to foreign account information-sharing agreements: due diligence)	23
25		Section 185I amended (Obligations related to foreign account information-sharing agreements: information for NZ competent authority)	23
26		Section 185J amended (Obligations related to foreign account information-sharing agreements: information for third parties)	23
27		Section 185L repealed (Foreign account information-sharing agreements: anti-avoidance)	23
28		New headings and sections 185N to 185R inserted	23

	<i>CRS standard</i>	
185N	Requirements for financial institution	23
185O	Application of Common Reporting Standard	25
	<i>Foreign account information-sharing agreements generally</i>	
185P	Requirements for persons to provide information to financial institution	26
185Q	Requirements and penalties for entities that are not persons	26
185R	Foreign account information-sharing agreements: anti- avoidance	27
29	New sections 226D and 226E inserted	27
	226D Reportable jurisdictions for CRS standard and Part 11B	27
	226E Application of changes to CRS standard	28
30	New schedule 2 inserted (Application of CRS standard)	28
	Part 2	
	Business tax: AIM provisional tax method	
	Subpart 1—Amendments to Income Tax Act 2007	
31	Income Tax Act 2007 amended	28
32	Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items) [<i>Repealed</i>]	28
33	Section RA 14 amended (Payment dates for provisional tax)	28
34	Section RC 1 amended (What this subpart does)	29
35	Section RC 5 amended (Methods for calculating provisional tax liability)	29
36	New section RC 7B inserted (AIM method)	30
	RC 7B AIM method	30
37	Section RC 9 amended (Provisional tax payable in instalments)	31
38	Table R1 amended (Summary of instalment dates and calculation methods for provisional tax)	32
39	New section RC 10B inserted (Calculating amount of instalment for periods using AIM method)	32
	RC 10B Calculating amount of instalment for periods using AIM method	32
40	Section RC 24 amended (Calculating instalments in transitional years: GST ratio method)	32
41	New section RM 6B inserted (Refunds for overpaid AIM method instalments)	32
	RM 6B Refunds for overpaid AIM method instalments	32
42	RM 13 amended (Limits on refunds for ICA companies)	33
43	Section RP 17 amended (Tax pooling intermediaries)	33
44	Section RP 17B amended (Tax pooling accounts and their use)	33

45	Section RP 19B amended (Transfers for certain expected tax liabilities)	33
46	Section YA 1 amended (Definitions)	34
47	Schedule 3 amended (Payment of provisional tax and terminal tax)	34
	Subpart 2—Amendments to Tax Administration Act 1994	
48	Tax Administration Act 1994 amended	36
49	Section 3 amended (Interpretation)	36
50	New heading and sections 15U to 15Z inserted	36
	<i>AIM method</i>	
	15U Approval of approved AIM providers	36
	15V Revocation of approval of AIM providers: Commissioner	37
	15W Revocation of approval of AIM providers: provider	37
	15X Publication of approval, revocation, etc	37
	15Y AIM method: approval of large business AIM-capable system	38
	15Z AIM method: approval of person over \$5,000,000	38
51	New sections 45 and 45B inserted	38
	45 AIM method information: taxpayers	38
	45B AIM method information: approved AIM providers	38
52	New heading and sections 91AAX to 91AAZ inserted	39
	<i>Determinations relating to AIM method</i>	
	91AAX Accounting and rate determinations relating to AIM method	39
	91AAZ Class of taxpayers that must not use AIM method	39
	91AAZ AIM method information	40
53	Section 119 amended (Commissioner may determine amount of provisional tax)	40
54	New section 120KBC inserted (Interest for AIM method provisional taxpayers)	40
	120KBC Interest for AIM method provisional taxpayers	40
55	Section 120KC amended (Residual income tax of new provisional taxpayer)	41
56	Section 120KE amended (Provisional tax and rules on use of money interest)	41
57	New section 120LB inserted (Meaning of unpaid tax and overpaid tax for tax credit transferees under AIM method) <i>[Repealed]</i>	41
58	New section 120VB inserted (Interest on overpaid AIM method provisional tax)	41
	120VB Interest on overpaid AIM method provisional tax	42
59	Section 141 amended (Tax shortfalls)	42
60	Section 141B amended (Unacceptable tax position)	42

Part 3

Business tax and remedial matters

Subpart 1—Amendments to Income Tax Act 2007

61	Income Tax Act 2007 amended	42
62	Section CB 6A amended (Disposal within 2 years: bright-line test for residential land)	42
63	Section CB 15B amended (When land acquired)	43
64	Section CB 15B amended (When land acquired)	43
65	Section CD 32 amended (Employee benefits)	43
66	Section CE 2 amended (Value and timing of benefits under share purchase agreements)	44
67	Section CX 6 amended (Private use of motor vehicle)	44
68	Section CX 17 amended (Benefits provided to employees who are shareholders or investors)	44
69	Section DB 7 amended (Interest: most companies need no nexus with income)	45
70	Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)	45
71	New section DB 18AA inserted (Square metre rate method)	46
	DB Square metre rate method 18AA	46
72	Section DE 1 amended (What this subpart does)	47
73	Section DE 2 amended (Deductions for business use)	47
74	New section DE 2B inserted (Election to use kilometre rate method or costs method)	48
	DE 2B Election to use kilometre rate method or costs method	48
75	Section DE 3 amended (Methods for calculating proportion of business use)	48
76	Section DE 4 amended (Default method for calculating proportion of business use)	48
77	Heading and section DE 12 replaced	49
	<i>Kilometre rates</i>	
	DE 12 Kilometre rate method	49
78	Section DF 4 amended (Payments for social rehabilitation)	49
79	Section EA 4 amended (Deferred payment of employment income)	50
80	Section EE 49 amended (Amount of depreciation recovery income when item partly used for business)	50
81	Section HD 3 amended (Agent's duties and liabilities)	50
82	Section LB 7 amended (Tax credits related to personal service rehabilitation payments: providers)	50
83	Section LB 8 amended (Tax credits related to personal service rehabilitation payments: payers)	50
84	Section MD 9 amended (Fifth requirement: full-time earner)	50

85	Table R1 amended (Summary of instalment dates and calculation methods for provisional tax)	51
86	Section RD 3 amended (PAYE income payments)	51
87	Section RD 6 amended (Certain benefits and payments)	51
88	Section RD 7B amended (Treatment of certain benefits under employee share agreements)	51
89	Section RD 8 amended (Schedular payments)	51
90	Section RD 10 amended (Amounts of tax for PAYE income payments)	52
91	New section RD 10B inserted (Amounts of tax for schedular payments)	52
	RD 10B Amounts of tax for schedular payments	52
92	Section RD 18 repealed (Schedular payments without notification)	53
93	Section RD 60 amended (Close company option)	53
94	Section RD 61 amended (Small business option)	53
95	Section RL 1 amended (Residential land withholding tax)	53
96	Section RL 2 amended (Vendors: who must pay, and how?)	53
97	Section RL 4 amended (How much RLWT?)	53
98	Section YA 1 amended (Definitions)	53
99	Schedule 4 amended (Rates of tax for schedular payments)	54
	Subpart 2—Amendments to Tax Administration Act 1994	
100	Tax Administration Act 1994 amended	56
101	Section 3 amended (Interpretation)	56
102	Section 24G amended (Use of incorrect tax codes)	57
103	Section 24L amended (Schedular notification)	57
104	New sections 24LB and 24LC inserted	57
	24LB Schedular tax rate elected by payee	57
	24LC Schedular tax rate prescribed by Commissioner	58
105	Section 24M amended (Exemption certificates for schedular payments)	59
106	Section 32H amended (Providing RWT exemption certificate when person meets requirements)	59
107	Section 32I amended (Providing RWT exemption certificate to person who does not meet requirements)	60
108	Section 35 amended (Power of Commissioner to prescribe forms)	60
109	Section 54E amended (RLWT certificate of exemption)	60
110	Section 81 amended (Officers to maintain secrecy)	60
111	New sections 85M and 85N inserted	60
	85M Disclosure of information relating to some offences to the Registrar of Companies	61
	85N Disclosure of information to approved credit reporting agencies	61
112	Section 113A amended (Correction of minor errors in subsequent returns)	64

113	Section 120C amended (Definitions)	64
114	Section 120KB amended (Provisional tax instalments and due dates generally)	64
115	New section 120KBB inserted (Interest for most standard method and some estimation method provisional taxpayers)	64
	120KBB Interest for most standard method and some estimation method provisional taxpayers	64
116	Section 120KE amended (Provisional tax and rules on use of money interest)	66
117	New section 120VC inserted (Interest on some provisional tax)	66
	120VC Interest on some provisional tax	66
118	Section 138E amended (Certain rights of challenge not conferred)	66
119	Section 139B amended (Late payment penalty)	67
120	Section 139B amended (Late payment penalty)	67
121	Section 139BA amended (Imposition of late payment penalties when financial relief sought)	68
122	Section 139C amended (Late payment penalty and provisional tax)	68
123	Section 142A amended (New due date for payment of tax that is not a penalty)	68
124	Section 142B amended (Due date for shortfall penalties)	69
125	Section 173L amended (Transfer of excess tax within taxpayer's accounts)	70
126	Section 173M amended (Transfer of excess tax to another taxpayer)	70
127	Section 173S amended (Transfers of interest on overpaid tax)	71
128	Section 183C amended (Cancellation of interest)	71
129	New section 227B (Regulations providing for transitional exemptions and other matters)	72
	227B Regulations providing for transitional exemptions and other matters	72
	Subpart 3—Amendments to other enactment	
130	Student Loan Scheme Act 2011 amended	74
131	Section 25 amended (Commissioner may treat certain borrowers as being physically in New Zealand)	74
132	Section 27E amended (Commissioner may remove entity's listing as charity)	74
133	Schedule 1 amended (Conditions to borrower being treated as being physically in New Zealand)	74
	1 Definitions	74
	9A Condition to government-funded full-time overseas study application	75
	9B Condition to government-funded overseas internship application	75

Schedule
New schedule 2 inserted

76

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017.

2 Commencement

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) Section 4 is treated as coming into force on 21 October 2013.
- (3) Section 63 is treated as coming into force on 22 November 2013.
- (4) Section 62 is treated as coming into force on 1 October 2015.
- (5) Sections 64 and 132 are treated as coming into force on 14 May 2016.
- (6) Sections 95, 96, 97, 98(7), and 109 are treated as coming into force on 1 July 2016.
- (7) Sections 113, 118, 119, 121, 123, 124, 125, 126, 127, and 128 are treated as coming into force on 5 February 2017.
- (8) Sections 7, 9(1) to (7), 10(1), (2), and (3), 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 30 come into force on 1 July 2017.
- (9) Sections 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 98(2), (3), (4), (5), (6), (8), and (9), 99, 101, 102, 103, 104, 105, 106, 107, 110, 111, 112, 114, 115, 116, 117, 120, and 122 come into force on 1 April 2017.
- (10) Part 2 comes into force on 1 April 2018.

Part 1

Exchange of information

Subpart 1—Amendments to Income Tax Act 2007

3 Income Tax Act 2007 amended

This subpart amends the Income Tax Act 2007.

4 Section BH 1 amended (Double tax agreements)

In section BH 1(1)(b)(i), replace “the government of any territory” with “1 or more governments of territories”.

5 Section HC 11 amended (Foreign trusts)

In section HC 11,—

- (a) in the words before paragraph (a), replace “in relation to a distribution” with “at a moment in time”;
- (b) in paragraph (b), replace “on the date of distribution” with “with the moment in time”.

6 Section HC 26 amended (Foreign-sourced amounts: resident trustees)

(1) In section HC 26(1)(b)(ii), replace “year.” with “year); and”.

(2) After section HC 26(1)(b), insert:

- (c) for a foreign trust for which a resident trustee applies for registration within the period (the **application period**) given by section 59C of the Tax Administration Act 1994 and that is registered by the end of the income year (the **post-deadline year**) beginning next after the end of the application period,—
 - (i) the trust has a trust deed; and
 - (ii) the income year ends after the day on which the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 receives the Royal assent; and
 - (iii) for an income year that includes part of the application period or is the post-deadline year, the trust is registered before the end of the post-deadline year and is not deregistered before the foreign-sourced amount is derived; and
 - (iv) for an income year beginning after the end of the post-deadline year, the trust is registered when the foreign-sourced amount is derived; and
 - (v) the trustee complies with the requirements under sections 22, 59B, 59C, and 59D of the Tax Administration Act 1994 that the trustee must meet during the income year; and
- (d) for a foreign trust to which paragraph (c) does not apply,—
 - (i) the trust has a trust deed; and
 - (ii) the trust is registered at the beginning of the income year; and
 - (iii) the trust is registered when the foreign-sourced amount is derived; and
 - (iv) the trustee complies with the requirements under sections 22, 59B, 59C, and 59D of the Tax Administration Act 1994 that the trustee must meet during the income year.

(3) After section HC 26(1), insert:

Time for compliance with requirements

- (1B) For a trustee to satisfy subsection (1)(c)(v) or (d)(iv) for an income year, the trustee must—
- (a) comply in the income year with the requirements referred to in the subparagraph:
 - (b) satisfy the Commissioner that the trustee made reasonable efforts in the income year to comply with the requirements referred to in the subparagraph and corrected the failure to comply within a reasonable period of time after the trustee became aware of the failure.
- (4) Repeal section HC 26(2), (3), and (4).

7 Section YA 1 amended (Definitions)

In section YA 1, replace the definition of **foreign account information-sharing agreement** with:

foreign account information-sharing agreement means a double tax agreement that facilitates the automatic exchange by the parties of information relating to financial accounts, including—

- (a) the *Agreement between the Government of New Zealand and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA* brought into force for New Zealand by the Double Tax Agreements (United States of America—FATCA) Order 2014 (LI 2014/209), as amended from time to time;
- (b) the multilateral *Convention on Mutual Administrative Assistance in Tax Matters, as amended by 2010 Protocol* which was brought into force for New Zealand by the Double Tax Agreements (Mutual Administrative Assistance) Order 2013 (SR 2013/437), as amended from time to time

Subpart 2—Amendments to Tax Administration Act 1994

8 Tax Administration Act 1994 amended

This subpart amends the Tax Administration Act 1994.

9 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) In the definition of **civil penalty**, after paragraph (cb), insert:

(cc) a penalty under section 142H or 142I; or

- (3) Insert, in appropriate alphabetical order:

CRS applied standard means the CRS standard as modified by section 185O for the determination of requirements under this Act

CRS publication means the *Standard for Automatic Exchange of Financial Account Information in Tax Matters*, published by the Organisation for Economic Co-operation and Development

CRS standard means the *Common Standard on Reporting and Due Diligence for Financial Account Information*, as amended from time to time, which is a standard—

- (a) developed by the Organisation for Economic Co-operation and Development and the Group of Twenty countries; and
- (b) agreed by the Council for the Organisation for Economic Co-operation and Development on 15 July 2014; and
- (c) contained in Part IIB of the CRS publication

(4) Insert, in appropriate alphabetical order:

FATCA agreement means the *Agreement between the Government of New Zealand and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA*, commonly known as the intergovernmental agreement, which was brought into force for New Zealand by the Double Tax Agreements (United States of America—FATCA) Order 2014 (LI 2014/209), as amended from time to time

(5) Insert, in appropriate alphabetical order:

information, for the purpose of Part 11B, includes a self-certification

(6) Insert, in appropriate alphabetical order:

maintain, for a financial institution to which the CRS applied standard or the FATCA agreement applies in relation to a financial account, includes,—

- (a) if the financial account is a custodial account, holding custody over the assets in the financial account, including by holding assets in street name for an account holder in the financial institution;
- (b) if the financial account is a depository account, having an obligation to make payments with respect to the financial account, other than as agent for another financial institution;
- (c) if the financial account is an equity or debt interest, being the financial institution in which the interest is held;
- (d) if the account is a cash value insurance contract or an annuity contract, having an obligation to make payments with respect to the contract

(7) Insert, in appropriate alphabetical order:

passive income, in the application of the CRS applied standard to a person or entity for a period, means an amount that is not income from a transaction entered into in the ordinary course of the business of a dealer in financial assets and that is—

- (a) a dividend:

- (b) interest:
 - (c) income equivalent to interest:
 - (d) rent or a royalty, other than rent or a royalty derived in the active conduct of a business conducted, partly or wholly, by employees of the person or entity:
 - (e) an annuity:
 - (f) for financial assets that give rise to amounts included under paragraphs (a) to (e), the amount by which gains from the sales or exchanges of the financial assets in the period exceed losses from the sales or exchanges:
 - (g) the amount by which gains from the transactions in financial assets in the period exceed losses from the transactions:
 - (h) the amount by which gains from the foreign currency transactions in the period exceed losses from the transactions:
 - (i) the amount by which gains from the swaps in the period exceed losses from the swaps:
 - (j) an amount received under a cash value insurance contract
- (8) Repeal the definition of **qualifying resident foreign trustee**.
- (9) Repeal the definition of **settlement**.
- (10) Repeal the definition of **settlor**.
- (11) In the definition of **tax return**, after paragraph (b), insert:
- (bb) does not include a report required by section 185N to be provided to the Commissioner; and
- (12) Insert, in appropriate alphabetical order:
- taxpayer identification number**, for a person and a jurisdiction other than New Zealand, means the functional equivalent of the person's tax file number in that jurisdiction
- (13) Insert, in appropriate alphabetical order:
- TIN** means a taxpayer identification number
- 10 Section 22 amended (Keeping of business and other records)**
- (1) In section 22(2), paragraph (fc), replace “Act,—” with “Act:”.
- (2) After section 22(2)(fc), insert:
- (fd) must meet requirements under Part 11B, including requirements expressed as being imposed on an entity other than a person, of—
 - (i) a financial institution, as defined in the FATCA agreement:
 - (ii) a financial institution, as defined in the CRS applied standard,—
- (3) After section 22(2)(lc), insert:

- (ld) a failure by the person to obtain a self-certification as required by the CRS applied standard; and
 - (le) steps taken by the person and evidence relied upon by the person in performing obligations under Part 11B relating to the CRS applied standard; and
- (4) In section 22(7)(d), before subparagraph (i), replace “section 59B(3)” with “section 59C(3)”.
 - (5) Repeal section 22(7)(d)(i) and (ii).

11 Section 59B replaced (Disclosure of foreign trust particulars)

Replace section 59B with:

59B Foreign trust with resident foreign trustee: registration and disclosure

- (1) The Commissioner may register a foreign trust if the foreign trust has a resident foreign trustee and a trustee pays the prescribed fee.
- (2) Resident foreign trustees of a foreign trust must apply to the Commissioner for registration of the foreign trust and pay the prescribed fee.
- (3) A trustee applying for registration of a foreign trust (the **contact trustee**) is responsible for communicating with the Commissioner for the trust and must provide, with the application and fee,—
 - (a) the name of the trust;
 - (b) the date, amount, settlor, and nature of each settlement on the trust that is not a provision to the trustee at less than market value of minor services incidental to the activities of the trust and is made in the period of time ending with the application and beginning with—
 - (i) the date on which the trust is formed, if a trustee is not a natural person or is in the business of providing trustee services; or
 - (ii) the later of the date on which the trust is formed and 30 June 2013, if subparagraph (i) does not apply and a trustee becomes required to register the trust on the date on which the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 receives the Royal assent; or
 - (iii) the later of the date on which the trust is formed and the date that is 4 years before the earliest date on which a trustee becomes required to register the trust, if subparagraphs (i) and (ii) do not apply;
 - (c) the name, email address, physical residential or business address, jurisdiction of tax residence, taxpayer identification number, and connection with the trust of—
 - (i) each settlor who makes a settlement referred to in paragraph (b):

- (ii) each person with a power to appoint or dismiss a trustee, to amend the trust deed, or to add or remove a beneficiary:
 - (iii) each person with a power to control the exercise of a power referred to in subparagraph (ii):
 - (iv) each person with a power to control a trustee in the administration of the trust:
 - (v) each trustee:
 - (vi) for a fixed trust, each beneficiary that is not a minor and each nominee for a beneficiary:
 - (vii) for a fixed trust and a beneficiary who is a minor, the parent or guardian of the beneficiary:
- (4) for a fixed trust and a beneficiary who is a minor, the name, age, and taxpayer identification number of the beneficiary:
- (e) for a discretionary trust, details of each beneficiary or class of beneficiary sufficient for the Commissioner to determine, when a distribution is made under the trust, whether a person is a beneficiary:
- (f) a copy of the trust deed and of each document that amends or supplements the trust deed, and a copy of each document that is the functional equivalent of a trust deed or amending or supplementing document.
- (4) The contact trustee must provide a signed declaration that each person referred to in subsection (3)(c)(i) to (vii)—
- (a) is deceased; or
 - (b) despite the efforts of the contact trustee detailed in the declaration, cannot be located by the contact trustee; or
 - (c) has been informed of, and has agreed to provide the information necessary for compliance with, the requirements relating to the provision of information relating to the trust and persons connected with the trust imposed by all of—
 - (i) the Tax Administration Act 1994:
 - (ii) the Anti-Money Laundering and Countering Financing of Terrorism Act 2009:
 - (iii) the regulations made under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.
- (5) A contact trustee must provide to the Commissioner the details of an addition or alteration to a particular to which subsection (3) refers and any signed declaration under subsection (4) required as a consequence of the addition or alteration.
- (6) A contact trustee who anticipates ceasing to be the person communicating with the Commissioner for the trust must provide to the Commissioner the details of—

- (a) the anticipated date on which the trustee ceases to be the contact trustee for the foreign trust;
 - (b) the email address and physical residential address of the trustee after the anticipated date;
 - (c) the name, email address, and physical residential or business address of the replacement contact trustee for the foreign trust after the anticipated date.
- (7) If a foreign trust has more than 1 resident foreign trustee, each resident foreign trustee is responsible for the performance of the obligations imposed on a trustee relating to registration of the trust, disclosure of information, annual returns, financial statements, and payment of fees.

59C Time limits for registration and disclosure of changes

- (1) A resident foreign trustee who becomes required to register the foreign trust under section 59B—
- (a) on the date (the **assent date**) on which the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 receives the Royal assent, is required to apply for the registration in the period beginning with the assent date and ending with 30 June 2017, except if subsection (3) applies;
 - (b) after the assent date, is required to apply for the registration in the period of 30 days beginning from the day on which the requirement commences, except if subsection (3) applies.
- (2) A resident foreign trustee who is required by section 59B(5) to provide information to the Commissioner after an application for the trust to be registered, must provide the information within 30 days after becoming aware of the addition or alteration.
- (3) A period for the meeting of a requirement that would otherwise be given by subsection (1) for a trustee is given by subsection (4) for the trustee if—
- (a) each trustee of the foreign trust is a natural person; and
 - (b) for each resident foreign trustee of the foreign trust, the foreign trust is the first trust for which the trustee has been a resident foreign trustee; and
 - (c) each trustee of the foreign trust is not in the business of providing trustee services; and
 - (d) the end of the period of 4 years and 30 days beginning with the earliest date on which a trustee of the foreign trust becomes a resident foreign trustee (the **grace period**) occurs after the period that would otherwise be given by subsection (1).
- (4) If subsection (3) applies for a requirement imposed on a trustee, the trustee must meet the requirement within the grace period.

59D Annual return for foreign trust

- (1) A resident foreign trustee must provide to the Commissioner a return for the foreign trust, and the prescribed fee, for each year (the **return year**) that—
 - (a) includes a period during which the foreign trust is registered or section 59B requires a resident foreign trustee to register the foreign trust; and
 - (b) ends with—
 - (i) a date (the **balance date**) for which the resident foreign trustee prepares financial statements or is required to prepare financial statements; or
 - (ii) 31 March if the resident foreign trustee does not prepare financial statements and is not required to prepare financial statements; and
 - (c) begins after 31 March 2017, if a resident foreign trustee becomes required to register the foreign trust on the date of enactment of this section; and
 - (d) if the resident foreign trustee has a grace period referred to in section 59C(3), ends after the grace period.
- (2) A return must be in the form prescribed by the Commissioner and include—
 - (a) financial statements for the trust and the return year, if the trustee prepares financial statements or is required to prepare financial statements;
 - (b) the date, amount, and nature of each settlement that—
 - (i) is not the provision to the trustee, at less than market value, of minor services incidental to the activities of the trust; and
 - (ii) is made on the trust in the return year;
 - (c) the name, email address, physical residential or business address, jurisdiction of tax residence, and taxpayer identification number of each settlor making the settlement;
 - (d) the date, amount, and nature of each distribution made by the trustee of the trust in the return year and the name of the beneficiary who receives the distribution;
 - (e) for each beneficiary to which a distribution is made, the email address, physical residential address, jurisdiction of tax residence, and taxpayer identification number of the beneficiary or, if the beneficiary is a minor, the age, jurisdiction of tax residence, and tax identification number of the beneficiary and the name, email address, physical residential address, jurisdiction of tax residence and taxpayer identification number of the parent or guardian of the beneficiary.
- (3) A return and the prescribed fee for a foreign trust and a return year must be provided by a resident foreign trustee to the Commissioner by—
 - (a) the date that is 6 months after the balance date for the trust and the return year, if the trust has a balance date; or

- (b) the 30 September following the end of the return year, if the trust does not have a balance date.

59E Fees: regulations and exemption

- (1) The Governor-General may from time to time, by Order in Council, make regulations prescribing—
 - (a) the fee for an application for the registration of a foreign trust:
 - (b) the fee for an annual return for a foreign trust.
- (2) A regulation made under subsection (1) may set out the period for which a fee prescribed by the regulations is to apply.
- (3) Until the commencement of the first regulation made under subsection (1),—
 - (a) the prescribed fee for an application for the registration of a foreign trust is \$270 inclusive of goods and services tax:
 - (b) the prescribed fee for an annual return for a foreign trust and a return year is \$50 inclusive of goods and services tax.
- (4) Subsection (3) and this subsection are repealed when that first regulation commences.
- (5) A resident foreign trustee for a foreign trust is not required to pay a fee referred to in subsection (1) if each resident foreign trustee for the foreign trust—
 - (a) is a natural person; and
 - (b) is not in the business of providing trustee services.

12 Section 81 amended (Officers to maintain secrecy)

After section 81(4)(y), insert:

- (z) communicating to a person who is a member of the New Zealand Police or an officer, employee, or agent of the Department of Internal Affairs any information relating to a registration, or absence of registration, for a foreign trust that the person is authorised by the Commissioner of Police or the chief executive of the Department of Internal Affairs to receive.

13 Section 89C amended (Notices of proposed adjustment required to be issued by Commissioner)

After section 89C(1), insert:

- (lba) the assessment is of a penalty under section 142H or 142I; or

14 New heading and sections 91AAU to 91AAW inserted

After section 91AAT, insert:

*Determinations relating to foreign account information-sharing agreements***91AAU Participating jurisdictions for CRS applied standard**

- (1) The Commissioner may determine that a territory outside New Zealand is a participating jurisdiction for the purposes of the CRS applied standard and Part 11B.
- (2) The determination may set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the determination is made.
- (3) A determination may provide for the change, extension, limitation, suspension, or cancellation of an earlier determination.
- (4) Within 30 days of issuing, changing, extending, limiting, suspending, or cancelling a determination under this section, the Commissioner must publish in a publication chosen by the Commissioner—
 - (a) the determination:
 - (b) details of a changed, extended, limited, suspended, or cancelled determination.

91AAV Suspension of reportable jurisdictions for CRS applied standard

- (1) The Commissioner may determine, for a territory outside New Zealand that has been provided by an Order in Council to be a reportable jurisdiction for the purposes of the CRS applied standard and requirements imposed by Part 11B, that the territory is not to be treated as a reportable jurisdiction.
- (2) The determination must set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the determination is made and must end no more than 3 months after the date of the determination.
- (3) Within 30 days of issuing a determination under this section, the Commissioner must publish the determination in a publication chosen by the Commissioner.

91AAW Non-reporting financial institutions and excluded accounts for CRS applied standard

- (1) The Commissioner may determine that, for the purposes of the CRS applied standard and requirements under Part 11B,—
 - (a) a financial institution, or type of financial institution, is a non-reporting financial institution:
 - (b) a financial account, or type of financial account, is an excluded account.
- (2) The determination may set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the determination is made.

- (3) A determination may provide for the change, extension, limitation, suspension, or cancellation of an earlier determination.
- (4) Within 30 days of issuing, changing, extending, limiting, suspending, or cancelling a determination under this section, the Commissioner must publish in a publication chosen by the Commissioner—
 - (a) the determination:
 - (b) details of a changed, extended, limited, suspended, or cancelled determination.

15 Section 94A amended (Assessment of shortfall penalties)

In section 94A(1), replace “civil penalty” with “civil penalty other than under section 142H or 142I”.

16 New section 94C inserted (Assessment of penalties under sections 142H and 142I)

After section 94B, insert:

94C Assessment of penalties under sections 142H and 142I

- (1) The Commissioner may, for a financial institution having obligations under Part 11B for financial accounts maintained by the financial institution, make an assessment of the amount of a penalty under section 142H that, in the Commissioner’s judgement, ought to be imposed and the financial institution is liable to pay the penalty assessed, except so far as the financial institution establishes in proceedings challenging the assessment that the assessment is excessive or that the financial institution is not chargeable with the penalty.
- (2) The Commissioner may, for a person or entity having obligations under Part 11B for the provision of information relating to a person or entity for a financial account, make an assessment of the amount of a penalty under section 142I that, in the Commissioner’s judgement, ought to be imposed and the person or entity is liable to pay the penalty assessed, except so far as the person or entity establishes in proceedings challenging the assessment that the assessment is excessive or that the person or entity is not chargeable with the penalty.

17 New sections 142H and 142I inserted

After section 142G, insert:

142H Failures of financial institutions to meet requirements under Part 11B and CRS applied standard

- (1) If a financial institution fails to meet a requirement under Part 11B and the CRS applied standard for financial accounts maintained by the financial institution, other than a requirement referred to in subsection (3), the financial institution is liable to pay a penalty of \$300 for each failure to which subsection (2) does not apply and for which no penalty under subsection (5) is imposed.

- (2) A financial institution is not liable to pay a penalty under subsection (1) for a failure that—
 - (a) the financial institution proves is due to circumstances outside the control of the financial institution:
 - (b) occurs before 1 July 2019, if the Commissioner is satisfied that the financial institution makes reasonable efforts to meet the requirement and reasonable efforts to correct the failure within a reasonable period of time after the financial institution becomes aware of the failure.
- (3) If a financial institution fails to meet a requirement under Part 11B and the CRS applied standard to obtain self-certifications when opening a financial account, the financial institution is liable to pay a penalty of \$300 for each account if subsection (4) does not apply to the failure and no penalty under subsection (5) is imposed for the failure.
- (4) A financial institution is not liable to pay a penalty under subsection (3) for a failure that occurs before 1 July 2019 for an account if the Commissioner is satisfied that the financial institution makes reasonable efforts to meet the requirement and makes reasonable efforts to correct the failure for the account within a reasonable period of time after the financial institution becomes aware of the failure.
- (5) If a financial institution fails to take reasonable care to meet a requirement of a financial institution under Part 11B and the CRS applied standard for financial accounts, and no penalty under subsections (1) and (3) is imposed for the failure, the financial institution is liable to pay a penalty of—
 - (a) \$20,000 for the first failure:
 - (b) \$40,000 for each further failure.
- (6) The total amount of penalties for a reporting period for which a financial institution is liable must not exceed—
 - (a) \$10,000, for penalties under subsections (1) and (3):
 - (b) \$100,000, for penalties under subsection (5).
- (7) The due date for payment of a penalty imposed under this section is the later of—
 - (a) 30 days after the date on which the Commissioner issues the notice of assessment for the penalty:
 - (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.

142I Failures to meet requirements under Part 11B to provide information, including self-certifications

- (1) This section applies to a person or entity (the **information provider**) required under Part 11B to provide information, including a self-certification, relating to a person or entity for a financial account.

- (2) The information provider is liable to pay a penalty of \$1,000 if the information provider—
 - (a) provides false information, other than a self-certification, relating to the information provider:
 - (b) signs or otherwise affirms a false self-certification for the information provider:
 - (c) provides false information, other than a self-certification, relating to another person or entity:
 - (d) provides a false self-certification for another person or entity:
 - (e) fails to provide information, other than a self-certification, relating to the information provider within a reasonable time after receiving a request for which the information is required to be provided:
 - (f) fails to sign, or otherwise affirm, and provide a self-certification relating to the information provider within a reasonable time after receiving a request for which the self-certification is required to be provided:
 - (g) fails to provide information, other than a self-certification, relating to another person or entity within a reasonable time after receiving a request for which the information is required to be provided:
 - (h) fails to provide a self-certification relating to another person or entity within a reasonable time after receiving a request obliging the self-certification to be provided:
 - (i) after providing a person or entity with a self-certification or other information, fails to inform the person or entity of a material change in the circumstances relating to the self-certification or information within a reasonable time after the information provider becomes aware of the change.
- (3) An information provider is not liable to pay a penalty under subsection (2) for a failure to provide information, including a self-certification, within the control of the information provider, if the Commissioner is satisfied that the failure occurred through no fault of the information provider.
- (4) An information provider is not liable to pay a penalty under subsection (2) for a failure to provide information, including a self-certification, relating to another person or entity and not within the control of the information provider, if the Commissioner is satisfied that the information provider makes reasonable efforts to meet the requirement.
- (5) The due date for payment of a penalty imposed under this section is the later of—
 - (a) 30 days after the date on which the Commissioner issues the notice of assessment for the penalty:

- (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.

18 Section 143 amended (Absolute liability offences)

After section 143(2B), insert:

- (2C) No person may be convicted of an offence against subsection (1) if the requirement with which the person fails to comply is a requirement under the CRS applied standard and Part 11B.

19 Section 143A amended (Knowledge offences)

- (1) After section 143A(1)(ab), insert:

- (ac) knowingly fails to provide information, including a self-certification, to another person when required to do so under Part 11B; or

- (2) In section 143A(2), in the words before paragraph (a),—

- (a) after “offence against”, insert “subsection (1)(ac) for knowingly failing to provide information, including a self-certification, to another person or against”;

- (b) delete “by the Commissioner”.

20 Section 185E amended (Purpose)

In section 185E, insert as subsections (2) to (4):

- (2) Sections 185F to 185M impose requirements on a person relating to information that is the subject of the FATCA agreement.
- (3) Sections 185N and 185O impose requirements on a person relating to information that is the subject of the CRS applied standard.
- (4) Sections 185P to 185R impose requirements on a person relating to either of the FATCA agreement and the CRS applied standard.

21 New heading inserted after section 185E

After section 185E, insert as a heading “*FATCA agreement*”.

22 Section 185F amended (Permitted choices in relation to foreign account information-sharing agreements)

- (1) In section 185F, heading, replace “**foreign account information-sharing agreements**” with “**FATCA agreement**”.
- (2) In section 185F(1), replace “a foreign account information-sharing agreement” with “the FATCA agreement”.

23 Section 185G amended (Obligations related to foreign account information-sharing agreements: registration)

- (1) In section 185G, heading, replace “**foreign account information-sharing agreements**” with “**FATCA agreement**”.

- (2) In section 185G, replace “a foreign account information-sharing agreement” with “the FATCA agreement”.

24 Section 185H amended (Obligations related to foreign account information-sharing agreements: due diligence)

- (1) In section 185H, heading, replace “foreign account information-sharing agreements” with “FATCA agreement”.
- (2) In section 185H, replace “a foreign account information-sharing agreement” with “the FATCA agreement”.

25 Section 185I amended (Obligations related to foreign account information-sharing agreements: information for NZ competent authority)

- (1) In section 185I, heading, replace “foreign account information-sharing agreements” with “FATCA agreement”.
- (2) In section 185I(1), replace “a foreign account information-sharing agreement” with “the FATCA agreement”.

26 Section 185J amended (Obligations related to foreign account information-sharing agreements: information for third parties)

- (1) In section 185J, heading, replace “foreign account information-sharing agreements” with “FATCA agreement”.
- (2) In section 185J(1), replace “a foreign account information-sharing agreement” with “the FATCA agreement”.

27 Section 185L repealed (Foreign account information-sharing agreements: anti-avoidance)

Repeal section 185L.

28 New headings and sections 185N to 185R inserted

- (1) After section 185M, insert:

CRS standard

185N Requirements for financial institution

- (1) A financial institution must comply with this section for a period in which the financial institution is—
- (a) resident in New Zealand under the CRS applied standard;
 - (b) a branch located in New Zealand under the CRS applied standard.
- (2) For the purposes of subsection (1), the requirements for a financial institution that is resident in New Zealand do not include requirements for a branch of the financial institution that is not located in New Zealand.
- (3) The financial institution must, for each reporting period and each financial account that is maintained by the financial institution in the reporting period,—

- (a) perform the due diligence procedures, and obtain the information, required by the CRS applied standard; and
- (b) for each new financial account, obtain the information referred to in subsection (4) for each account holder or controlling person identified by the financial institution as being—
 - (i) a resident of a foreign jurisdiction other than a reportable jurisdiction; and
 - (ii) a person or entity who would be a reportable person if the foreign jurisdiction were a reportable jurisdiction.
- (4) The information required under subsection (3)(b) to be obtained for an account holder or controlling person is—
 - (a) the date of birth for an individual; and
 - (b) the taxpayer identification number issued by the foreign jurisdiction for the person or entity, except if the domestic law of the foreign jurisdiction does not require the collection of the TIN.
- (5) The financial institution must, for each reporting period, give to the Commissioner a report of the information that the CRS applied standard and subsection (11) require the financial institution to provide to the competent authority.
- (6) The report by the financial institution for a reporting period must be given to the Commissioner by the 30 June following the 31 March that is the end of the reporting period, except as given by subsection (7).
- (7) The first report by the financial institution for information with respect to a financial account that is maintained by a financial institution in a reporting period must be given to the Commissioner by—
 - (a) 30 June 2018, if the financial account is identified before that date as being a reportable account that is a pre-existing individual account and a high value account;
 - (b) 30 June 2019, if the financial account is identified before that date as being a reportable account that is a pre-existing entity account or that is a pre-existing individual account and a lower value account.
- (8) For the purposes of this section, a financial account is not an undocumented account except in a situation described in Section III, subparagraph B(5) or C(5)(c) of the CRS applied standard.
- (9) In determining the aggregate balance or value of financial accounts, the financial institution must apply the rules in Section VII, subparagraph C(1) to (3) of the CRS applied standard.
- (10) The financial institution may choose that the reporting requirements given by the CRS applied standard for financial accounts held or controlled by a resident of a reportable jurisdiction apply to all financial accounts maintained by the financial institution and held or controlled by a resident of a foreign jurisdiction.

- (11) A financial institution that makes the election referred to in subsection (10) must comply with the chosen reporting requirements in each report for a reporting period.
- (12) A financial institution that chooses to review pre-existing entity accounts, whether all such accounts or a clearly identified group of such accounts, must complete the review by the date given in Section V, subparagraph D(1) of the CRS applied standard for completion of the review of pre-existing entity accounts with the specified aggregate account balance or value.
- (13) A financial institution that chooses to treat a discretionary beneficiary of a trust as not being a controlling person for the trust until the beneficiary receives a distribution must have reasonable safeguards and procedures for identifying when a distribution is made to the beneficiary.
- (14) The financial institution is not permitted to choose for a report for a reporting period—
 - (a) to use a reporting period other than a period ending with 31 March;
 - (b) to give the average balance of a financial account for a reporting period as being the balance for the financial account for the reporting period.
- (15) A report for a reporting period must be in the prescribed electronic format.

1850 Application of Common Reporting Standard

- (1) This section provides for the application of the CRS standard in determining the requirements for a person or entity under the Inland Revenue Acts.
- (2) The CRS standard is modified for the purposes of determining the requirements for a person or entity under the Inland Revenue Acts in the ways specified in schedule 2.
- (3) The CRS standard is treated as applying at a time—
 - (a) as modified by subsection (2); and
 - (b) consistently with the Commentary on the CRS standard contained in Part IIIB of the CRS publication, as amended at the time.
- (4) In the application of the CRS standard at a time, a term defined in the CRS standard and used in the Inland Revenue Acts has the meaning that it has at the time under the CRS standard, as modified by subsection (2).
- (5) A person or entity may make an election that is consistent with the CRS standard if the election is not contrary to the Inland Revenue Acts.
- (6) A person or entity that makes an election referred to in subsection (5) must meet the requirements of the CRS applied standard consistently with the election.

*Foreign account information-sharing agreements generally***185P Requirements for persons to provide information to financial institution**

- (1) This section applies to a person or entity connected with a financial account if the financial institution that maintains the financial account is required under the FATCA agreement or CRS applied standard (the **account requirements**) to perform due diligence for the financial account.
- (2) When a financial institution requests a person or entity (the **institution contact**) to provide information that the financial institution is required to obtain under the account requirements for the financial account, the institution contact must—
 - (a) provide to the financial institution the required information for the institution contact; and
 - (b) make reasonable efforts to obtain the required information for each other person or entity connected with the financial account, and provide the information to the financial institution.
- (3) When a person or entity connected with the financial account (the **secondary contact**) is asked by an institution contact or other person or entity (the **requesting person**) to provide information related to the financial account and referred to in subsection (2)(b), the secondary contact must—
 - (a) provide the requesting person with the required information for the secondary contact; and
 - (b) make reasonable efforts to obtain the required information for each other person or entity connected with the financial account and the secondary contact, and provide the information to the requesting person.
- (4) If a person or entity provides information to another person or entity as required by this section, the person or entity must, within a reasonable time of becoming aware of a material change in circumstances affecting that information, provide details of the material change to—
 - (a) the other person or entity, if the other person or entity is still connected with the financial account and responsible as a requesting person for the information; or
 - (b) the financial institution, if paragraph (a) does not apply.

185Q Requirements and penalties for entities that are not persons

- (1) If the FATCA agreement or CRS applied standard, or a related provision in this Act, is expressed as imposing a requirement or penalty on an entity that is not a person, the meeting of the requirement or the payment of the penalty for the entity is treated as being a joint and several requirement,—
 - (a) if the entity is a trust, for each trustee:
 - (b) if the entity is a partnership, for each partner:

- (c) if the entity is a joint venture, for each member of the joint venture:
 - (d) if the entity is a legal relationship between persons or entities that is not referred to in paragraphs (a) to (c), for each person or entity in the relationship.
- (2) If the FATCA agreement or CRS applied standard, or a related provision in this Act is expressed as requiring information to be provided to an entity that is not a person, the requirement is treated as being to provide the information to the persons given for the entity by subsection (1)(a) to (d).

185R Foreign account information-sharing agreements: anti-avoidance

- (1) If a main purpose of a person in entering an arrangement is to avoid a requirement under this Part, the arrangement is treated as having no effect in relation to the person's requirements under this Part.
- (2) The person has the requirements under this Part that the Commissioner considers to be appropriate in the absence of the arrangement.
- (2) This section applies for arrangements affecting the requirements of a person under this Part for a reporting period ending after 31 March 2017.

29 New sections 226D and 226E inserted

After section 226C, insert:

226D Reportable jurisdictions for CRS standard and Part 11B

- (1) The Governor-General may from time to time, by Order in Council, make regulations providing that a territory outside New Zealand is a reportable jurisdiction for the purposes of the CRS applied standard.
- (2) A regulation may set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the regulation is made.
- (3) A regulation may provide for the change, extension, limitation, suspension, or cancellation of an earlier regulation.
- (4) Within 30 days of the making of a regulation under this section, the Commissioner must publish in a publication chosen by the Commissioner—
- (a) the new or changed regulation:
 - (b) details of the extension, limitation, suspension, or cancellation of the regulation.
- (5) The effect of a regulation providing that a territory outside New Zealand is a reportable jurisdiction may be suspended by a determination made by the Commissioner under section 91AAV.

226E Application of changes to CRS standard

- (1) The Governor-General may from time to time, by Order in Council, make regulations relating to a change in the CRS standard or the CRS publication providing for—
 - (a) the effect or lack of effect of the change on the CRS applied standard;
 - (b) a period for which an effect or lack of effect applies or does not apply;
 - (c) the effect or lack of effect of a change to the CRS applied standard on the obligations and liabilities of a person or entity or class of persons or entities.
- (2) A regulation may set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the regulation is made.
- (3) A regulation may provide for the change, extension, limitation, suspension, or cancellation of an earlier regulation.
- (4) Within 30 days of the making of a regulation under this section, the Commissioner must publish in a publication chosen by the Commissioner—
 - (a) the new or changed regulation;
 - (b) details of the extension, limitation, suspension, or cancellation of the regulation.

30 New schedule 2 inserted (Application of CRS standard)

After the schedule in the Tax Administration Act 1994, insert the schedule 2 set out in the schedule of this Act.

Part 2**Business tax: AIM provisional tax method****Subpart 1—Amendments to Income Tax Act 2007****31 Income Tax Act 2007 amended**

This subpart amends the Income Tax Act 2007.

32 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)

[Repealed]

Section 32: repealed, on 1 April 2018, by section 416 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

33 Section RA 14 amended (Payment dates for provisional tax)

- (1) In section RA 14, replace “F” with “F1”.
- (2) This section applies for the 2018–19 and later income years.

34 Section RC 1 amended (What this subpart does)

- (1) In section RC 1(2), replace “the letters A to F” with “the alphanumeric designations A to F1”.
- (2) This section applies for the 2018–19 and later income years.

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

- (1) After section RC 5(5), insert:

AIM method

- (5B) A person must use the AIM method under section RC 7B to determine their provisional tax liability for the tax year (the **current tax year**), other than a transitional year, if the person—
 - (a) has chosen to use the AIM method for the current tax year on or before the first instalment date for them under the AIM method, and the current tax year is not a transitional year; and
 - (b) has an AIM-capable accounting system that is up-to-date for relevant tax law for the corresponding income year and for determinations under section 91AAX of the Tax Administration Act 1994 for the corresponding income year; and
 - (c) has—
 - (i) annual gross income of \$5,000,000 or less for the tax year before the current tax year;
 - (ii) annual gross income of \$5,000,000 or less for the first tax year for which the person used the AIM method, and the Commissioner has approved under section 15Z of the Tax Administration Act 1994 the person’s continued use of an AIM-capable accounting system for tax years in which the person has annual gross income of more than \$5,000,000;
 - (iii) a large business AIM-capable system; and
 - (d) has not been liable, in 1 of the last 4 tax years before the current tax year, for a shortfall penalty in relation to their use of the AIM method and an approved AIM provider’s AIM-capable accounting system; and
 - (e) has not returned tax liabilities using the AIM method with the sole purpose or effect of consistently, year-on-year, reducing their tax liabilities below the amounts of reasonably accurate assessments; and
 - (f) is not a member of a class of taxpayers that the Commissioner has determined, under section 91AAY of the Tax Administration Act 1994, must not use the AIM method; and
 - (g) for the current tax year, has not failed more than twice to give the Commissioner information in the prescribed form, as provided by section 45 of the Tax Administration Act 1994.

AIM method: exception

- (5C) A person who does not meet the requirements of subsection (5B) can not use the AIM method for the current tax year. If they can not use the AIM method for the current year because part-way through the corresponding income year the person stops meeting the requirements of subsection (5B), the person is treated as using the estimation method for the whole of the current tax year.
- (2) In section RC 5, in the list of defined terms, insert “AIM-capable accounting system”, “annual gross income”, “instalment date”, “large business AIM-capable system”, “shortfall penalty”, “taxpayer”, and “transitional year”.
- (3) This section applies for the 2018–19 and later income years.

36 New section RC 7B inserted (AIM method)

- (1) After section RC 7, insert:

RC 7B AIM method*When this section applies*

- (1) This section applies to—
- (a) a person who meets the requirements of section RC 5(5B); and
 - (b) the calculation of the amount of provisional tax payable for a tax year, other than a transitional year, under the AIM method.

AIM method

- (2) A person must use an AIM-capable accounting system for the calculation of provisional tax payable for a tax year.

Meaning of AIM-capable accounting system

- (3) **AIM-capable accounting system** means a double-entry accounting system that is an approved AIM provider’s product, and uses a core software package from an approved AIM provider, if the system has the following features:
- (a) a core software accounting package and connected packages that provide the ability to—
 - (i) generate and keep comprehensive financial accounts, including accounting income and expenditure, ledger accounts, trial balances, bank account reconciliations, and journals, on an on-demand basis, in accordance with good accounting and tax practice; and
 - (ii) calculate tax liabilities for the tax year using tax adjustments for the financial accounts, in accordance with a determination under section 91AAX of the Tax Administration Act 1994 (a **section 91AAX determination**), and using tax rates under a section 91AAX determination; and
 - (iii) for amounts for which there is no tax adjustment under a section 91AAX determination, calculate tax liabilities for the tax year

- using tax rates under a section 91AAX determination, and using tax adjustments for the financial accounts that result in reasonably accurate assessments of tax liabilities for a person; and
- (iv) recalculate all financial accounts and tax liabilities, if retrospective adjustments are required for the year to date; and
- (v) produce reports and other information as required by the Commissioner, in formats prescribed by the Commissioner; and
- (b) electronic communication facilities for—
 - (i) giving information in the form prescribed by the Commissioner; and
 - (ii) sending and receiving messages and notifications; and
- (c) help documentation for end-users and their tax agents on the use of the package, with ongoing support provided by the approved AIM provider on the use of the package.

Defined in this Act: AIM-capable accounting system, approved AIM provider, Commissioner, person, provisional tax, tax agent, tax year

- (2) This section applies for the 2018–19 and later income years.

37 Section RC 9 amended (Provisional tax payable in instalments)

- (1) After section RC 9(4)(b), insert:

(bb) to a person that uses the AIM method for the tax year:

- (2) After section RC 9(4), insert:

AIM method

- (4B) A person liable to pay provisional tax who uses the AIM method for the current tax year must pay provisional tax—
- (a) if the person is not registered for GST, or has a 6-month taxable period under section 15 of the Goods and Services Tax Act 1985, on the 6 instalment dates in the months set out in schedule 3, part A, columns A, B, C, D, E, and F for their balance date. The amount of each instalment is provided by section RC 10B; or
 - (b) if the person has a 2-month taxable period under section 15 of the Goods and Services Tax Act 1985, on the group of 6 instalment dates in the months set out in either schedule 3, part A, columns A, B, C, D, E, and F or in schedule 3, part A, columns A1, B1, C1, D1, E1, and F1 that corresponds to the due dates for their GST returns. The amount of each instalment is provided by section RC 10B; or
 - (c) if the person has a 1-month taxable period under section 15 of the Goods and Services Tax Act 1985, on the 12 instalment dates in the months set out in schedule 3, part A, columns A to F1 for their corresponding income year. The amount of each instalment is provided by section RC 10B.

- (3) In section RC 9(6), replace “columns A to F” with “columns A, B, C, D, E, and F”.
- (4) This section applies for the 2018–19 and later income years.

38 Table R1 amended (Summary of instalment dates and calculation methods for provisional tax)

- (1) In section RC 9, in table R1, after the row labelled “Estimation RC 5(5)”, insert the following row:

AIM	2 month	RC 7B	6: RC 9(4B)(a) and (b)	A, B, C, D, E, and F, or A1, B1, C1, D1, E1, F1	RC 10B	120KBC
RC 5(5B)	1 month	RC 7B	12: RC 9(4B)(c)	A to F1	RC 10B	120KBC

- (2) In section RC 9, in table R1, in the row labelled “GST ratio RC 5(6)”, replace “A to F” with “A, B, C, D, E, and F” in each place where it appears.
- (3) This section applies for the 2018–19 and later income years.

39 New section RC 10B inserted (Calculating amount of instalment for periods using AIM method)

- (1) After section RC 10, insert:

RC 10B Calculating amount of instalment for periods using AIM method

For a person who uses the AIM method, the amount of provisional tax payable on an instalment date for a tax year is the amount calculated using an AIM-capable accounting system for the 2-monthly or monthly period given by schedule 3, part AB (Payment of provisional tax and terminal tax) for the applicable instalment date.

Defined in this Act: AIM-capable accounting system, instalment date, person, provisional tax

- (2) This section applies for the 2018–19 and later income years.

40 Section RC 24 amended (Calculating instalments in transitional years: GST ratio method)

- (1) In section RC 24(2), replace “instalments A to F” with “instalments A, B, C, D, E, and F”.
- (2) This section applies for the 2018–19 and later income years.

41 New section RM 6B inserted (Refunds for overpaid AIM method instalments)

- (1) Before section RM 7, insert:

RM 6B Refunds for overpaid AIM method instalments

Refund

- (1) The Commissioner must refund to a person the amount given by the formula in subsection (2), if the person uses the AIM method for a tax year and gives the

Commissioner the required information in the form prescribed under section 45 of the Tax Administration Act 1994 (the **form**).

Formula

- (2) For the purposes of subsection (1) the refund amount is—
AIM payments year to date – AIM year to date.

Definition of items in formula

- (3) In the formula,—
- (a) **AIM payments year to date** means the amount of provisional tax paid by the person for the tax year on and before the last day of the instalment period that the form relates to:
- (b) **AIM year to date** means the amount of provisional tax liability that the person would have if the AIM method was applied for the period starting at the beginning of the tax year and finishing on the last day of the instalment period that the form relates to.

Defined in this Act: Commissioner, instalment date, provisional tax, tax year

- (2) This section applies for the 2018–19 and later income years.

42 RM 13 amended (Limits on refunds for ICA companies)

- (1) In section RM 13(1)(a), replace “RM 5” with “RM 5, other than a refund of provisional tax paid under the AIM method”.
- (2) In section RM 13(1)(b), replace “companies)” with “companies), other than a transfer of provisional tax paid under the AIM method”.
- (3) This section applies for the 2018–19 and later income years.

43 Section RP 17 amended (Tax pooling intermediaries)

- (1) In section RP 17(1)(a), replace “provisional tax” with “provisional tax other than under the AIM method”.
- (2) This section applies for the 2018–19 and later income years.

44 Section RP 17B amended (Tax pooling accounts and their use)

- (1) In section RP 17B(2)(a), replace “provisional tax” with “provisional tax other than under the AIM method”.
- (2) In section RP 17B(4), in the words before the paragraphs, replace “provisional tax” with “provisional tax other than under the AIM method”.
- (3) This section applies for the 2018–19 and later income years.

45 Section RP 19B amended (Transfers for certain expected tax liabilities)

- (1) In section RP 19B(1)(a), replace “provisional tax liability” with “provisional tax liability other than under the AIM method”.

- (2) In section RP 19B(3)(b), replace “provisional tax liability” with “provisional tax liability other than under the AIM method”.
- (3) In section RP 19B(5)(a)(i), replace “provisional tax liability” with “provisional tax liability other than under the AIM method”.
- (4) This section applies for the 2018–19 and later income years.

46 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) Insert, in appropriate alphabetical order:
AIM-capable accounting system is defined in section RC 7B (AIM method)
- (3) Insert, in appropriate alphabetical order:
approved AIM provider means a person that the Commissioner has approved as an approved AIM provider under section 15U of the Tax Administration Act 1994, if the approval has not been revoked under section 15V of that Act
- (4) Insert, in appropriate alphabetical order:
large business AIM-capable system means an AIM-capable accounting system approved by the Commissioner under section 45C of the Tax Administration Act 1994 for use by an approved class of taxpayers with annual gross income of more than \$5,000,000

47 Schedule 3 amended (Payment of provisional tax and terminal tax)

- (1) In schedule 3, in the shoulder references, insert “RC 10B”.
- (2) In schedule 3, part A, replace the table with:

Month of balance date	A	A1	B	B1	C	C1	D	D1	E	E1	F	F1	G	H
October	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	Sep	Nov
November	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	Oct	Dec
December	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	Nov	Jan
January	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	Dec	Feb
February	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	Jan	Mar
March	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	Feb	Apr
April	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	Feb	Apr
May	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	Feb	Apr
June	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	Feb	Apr
July	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	Feb	Apr
August	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	Feb	Apr
September	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	Feb	Apr

(3) In schedule 3, after part A, insert:

Part AB
Calculation periods for AIM method

Instalment date	6 instalments: 2-monthly period	12 instalments: monthly period
15 Jan	Oct, Nov	Nov
28 Jan	Nov, Dec	Dec
28 Feb	Dec, Jan	Jan
28 Mar	Jan, Feb	Feb
7 May	Feb, Mar	Mar
28 May	Mar, Apr	Apr
28 Jun	Apr, May	May
28 Jul	May, Jun	Jun
28 Aug	Jun, Jul	Jul
28 Sep	Jul, Aug	Aug
28 Oct	Aug, Sep	Sep
28 Nov	Sep, Oct	Oct

How to use this table:

Find the applicable instalment date in the first column, and use the period for that instalment in the second column if section RC 9(4B)(a) or (b) applies or use the period in the third column if section RC 9(4B)(c) applies.

- (4) This section applies for the 2018–19 and later income years.

Subpart 2—Amendments to Tax Administration Act 1994

48 Tax Administration Act 1994 amended

This subpart amends the Tax Administration Act 1994.

49 Section 3 amended (Interpretation)

- (1) In section 3(1), in the definition of **tax position**, after paragraph (k), insert:
- (kb) the use of the AIM method for provisional tax and the software product of an approved AIM provider:
- (2) This section applies for the 2018–19 and later income years.

50 New heading and sections 15U to 15Z inserted

- (1) After section 15T, insert:

AIM method

15U Approval of approved AIM providers

The Commissioner may approve a person as an approved AIM provider in relation to 1 or more of the person's AIM-capable accounting systems (the **products**), if approving the person would not negatively affect the integrity of the tax system and the person makes a statutory declaration of the following matters and gives it to the Commissioner, namely a declaration:

- (a) specifying the name of the products; and

- (b) declaring that the person's policy is to update the product regularly, to reflect changes in tax law or Commissioner's requirements (for example: the software is updated to reflect a change in a determination by the Commissioner under section 91AAX); and
- (c) declaring any other matters required by the Commissioner to be declared for the purposes of assuring the Commissioner that the person's product accurately calculates and communicates, in accordance with the Commissioner's requirements, tax liabilities that are reasonably accurate assessments of tax liabilities for the relevant accounting income and expenditure.

15V Revocation of approval of AIM providers: Commissioner

- (1) The Commissioner's approval of a person as an approved AIM provider under section 15U is revoked if—
 - (a) anything in their statutory declaration under section 15U is not true, or does not continue to be true after it is made; or
 - (b) revoking the approval positively affects the integrity of the tax system.
- (2) A revocation under subsection (1) does not take effect until the tax year after the tax year in which the Commissioner has notified the approved AIM provider of the revocation.
- (3) The Commissioner must consult the approved AIM provider before the approval is revoked.
- (4) The Commissioner may reverse a revocation before it takes effect, if the circumstances that gave rise to the revocation have been remedied by the approved AIM provider and there are no other circumstances requiring revocation under subsection (1).

15W Revocation of approval of AIM providers: provider

- (1) The Commissioner's approval of a person as an approved AIM provider under section 15U is revoked if the person notifies the Commissioner of the person's choice to revoke the Commissioner's approval.
- (2) A revocation under subsection (1) does not take effect until the tax year after the tax year in which the Commissioner has received notification of the revocation.
- (3) A person who has given notice under subsection (1) must immediately give notice of their choice to revoke to all end-users of the person's products that will be affected by the revocation.

15X Publication of approval, revocation, etc

The Commissioner may publish a notice in a publication chosen by the Commissioner in relation to any matter in sections 15U, 15V, and 15W.

15Y AIM method: approval of large business AIM-capable system

For the purposes of section RC 5(5B)(c)(iii) and the definition of **large business AIM-capable system** in section YA 1 of the Income Tax Act 2007, the Commissioner may approve an AIM-capable accounting system for use by a class of taxpayers with annual gross income of more than \$5,000,000, if the Commissioner decides that there is minimal risk that the approval will result in less net revenue collectable from the class of taxpayers over time.

15Z AIM method: approval of person over \$5,000,000

For the purposes of section RC 5(5B)(c)(ii) of the Income Tax Act 2007, the Commissioner may approve a person's continued use of an AIM-capable accounting system for tax years in which the person has annual gross income of more than \$5,000,000, if the Commissioner decides that there is minimal risk that the approval will result in less net revenue collectable from the person over time.

- (2) This section applies for the 2018–19 and later income years.

51 New sections 45 and 45B inserted

- (1) After section 44D, insert:

45 AIM method information: taxpayers

A person that uses the AIM method as described in section RC 5(5B) of the Income Tax Act 2007 must give to the Commissioner on or before an instalment date, information required by the Commissioner in relation to the instalment, the person's use of the AIM method, and their use of an approved AIM provider's AIM-capable accounting system, and any other information required by the Commissioner in the form prescribed by the Commissioner, even if the amount to pay for the instalment date is zero or a refund. The Commissioner may make a determination under section 91AAZ setting out information and form required or prescribed under this section.

45B AIM method information: approved AIM providers

- (1) An approved AIM provider must give to the Commissioner information required by the Commissioner in relation to their AIM-capable accounting system products, end-user's use of the products for a tax year, and any other matters relevant to the AIM method for the tax year, in the form prescribed by the Commissioner.
- (2) The Commissioner must not require taxpayer-specific information under this section.
- (3) The form must be given to the Commissioner within 6 months of the end of the tax year.

- (2) This section applies for the 2018–19 and later income years.

52 New heading and sections 91AAX to 91AAZ inserted

- (1) Before Part 5A, insert:

Determinations relating to AIM method

91AAX Accounting and rate determinations relating to AIM method

- (1) The Commissioner may determine, for the purposes of section RC 7B(3)(a) of the Income Tax Act 2007, tax adjustments for accounting income and expenditure under the AIM method and tax rates for the calculation of tax liabilities under the AIM method.
- (2) In making a determination the Commissioner must have regard to—
 - (a) the accuracy of assessments of tax liabilities that would result from the use of the tax adjustments and tax rates:
 - (b) the compliance costs incurred by taxpayers:
 - (c) the resources available to approved AIM providers.
- (3) A determination may set out the tax year or years for which it is to apply, or a date from which it is to apply (the **implementation date**).
- (4) A determination (a **later determination**) may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination. The Commissioner must give at least 120 days notice of the implementation date of that later determination, in a publication chosen by the Commissioner.
- (5) All determinations under this section must be published within 30 days of the making of the determination, in a publication chosen by the Commissioner. The implementation date must not be retrospective.

91AAZ Class of taxpayers that must not use AIM method

- (1) The Commissioner may determine, for the purposes of section RC 5(5B)(f) of the Income Tax Act 2007, that a class of taxpayers must not use the AIM method.
- (2) In making a determination the Commissioner must have regard to the risk that allowing the class of taxpayers to use the AIM method will result in less net revenue collectable from the class of taxpayers over time.
- (3) A determination may set out the tax year or years for which it is to apply, or a date from which it is to apply (the **implementation date**).
- (4) A determination (a **later determination**) may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination. The Commissioner must give at least 120 days notice of the implementation date of that later determination, in a publication chosen by the Commissioner.
- (5) All determinations under this section must be published within 30 days of the making of the determination, in a publication chosen by the Commissioner.

91AAZ AIM method information

- (1) The Commissioner may determine, for the purposes of section 45, information and form required or prescribed under that section.
 - (2) In making a determination the Commissioner must have regard to—
 - (a) the Commissioner’s information needs in the context of the duties and obligations in section 6A:
 - (b) the compliance costs incurred by taxpayers:
 - (c) the resources available to approved AIM providers.
 - (3) A determination may set out the tax year or years for which it is to apply, or a date from which it is to apply (the **implementation date**).
 - (4) A determination (a **later determination**) may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination. The Commissioner must give at least 120 days notice of the implementation date of that later determination, in a publication chosen by the Commissioner.
 - (5) All determinations under this section must be published within 30 days of the making of the determination, in a publication chosen by the Commissioner. The implementation date must not be retrospective.
- (2) This section applies for the 2018–19 and later income years.

53 Section 119 amended (Commissioner may determine amount of provisional tax)

- (1) After section 119(1)(c), insert:
 - (cb) the taxpayer is using the AIM method and the approved AIM provider’s product that they are using calculates tax liabilities that are not reasonably accurate assessments of tax liabilities for the relevant income and expenditure; or
- (2) This section applies for the 2018–19 and later income years.

54 New section 120KBC inserted (Interest for AIM method provisional taxpayers)

- (1) Before section 120KC, insert:

120KBC Interest for AIM method provisional taxpayers

- (1) This section applies if, for a tax year,—
 - (a) a person is liable to pay provisional tax for the tax year and uses the AIM method described in section RC 5(5B) of the Income Tax Act 2007; and
 - (b) there is no provisional tax interest avoidance arrangement in relation to the person.

- (2) If the person pays the amount of all 6 or 12 instalments, as applicable, on the instalment dates for the tax year in accordance with sections RC 9 and RC 10B of the Income Tax Act 2007, then, despite section 120KB(2) of this Act,—
- (a) the person’s residual income tax for the tax year is not due and payable as set out in section RC 9 of the Income Tax Act 2007; and
 - (b) the amount of their residual income tax minus the total amount paid in relation to the instalments for the tax year is due and payable in 1 instalment on their terminal tax date.
- (3) If the person fails to pay the amount of an instalment on the relevant instalment date for the tax year (a **failed instalment**) in accordance with sections RC 9 and RC 10B of the Income Tax Act 2007, then, despite section 120KB(2) of this Act, the person’s residual income tax for the tax year is not due and payable as set out in section RC 9 of the Income Tax Act 2007 for the instalment date.
- (2) This section applies for the 2018–19 and later income years.

55 Section 120KC amended (Residual income tax of new provisional taxpayer)

- (1) In section 120KC(2), replace “the letters A to F” with “the alphanumeric designations A to F1”.
- (2) This section applies for the 2018–19 and later income years.

56 Section 120KE amended (Provisional tax and rules on use of money interest)

- (1) After section 120KE(1)(c), insert:
- (cb) they have not used the AIM method under section RC 7B of that Act in the tax year to determine the amount of provisional tax payable for the tax year; and
- (2) In section 120KE(8), replace “the letters A to F” with “the alphanumeric designations A to F1”.
- (3) This section applies for the 2018–19 and later income years.

57 New section 120LB inserted (Meaning of unpaid tax and overpaid tax for tax credit transferees under AIM method)

[Repealed]

Section 57: repealed, on 1 April 2018, by section 417 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

58 New section 120VB inserted (Interest on overpaid AIM method provisional tax)

- (1) After section 120V, insert:

120VB Interest on overpaid AIM method provisional tax

No interest shall be payable by the Commissioner under section 120D(3) on an amount of AIM method provisional tax described in section RM 6B(2) of the Income Tax Act 2007.

- (2) This section applies for the 2018–19 and later income years.

59 Section 141 amended (Tax shortfalls)

- (1) In section 141(14), in the words before paragraph (a), replace “provisional taxpayer,” with “provisional taxpayer other than a date and taxpayer using the AIM method.”.
- (2) This section applies for the 2018–19 and later income years.

60 Section 141B amended (Unacceptable tax position)

- (1) After section 141B(1D), insert:
- (1E) A taxpayer does not take an unacceptable tax position merely by using the AIM method and an approved AIM provider’s AIM-capable accounting system.
- (1F) Subsection (1E) does not apply for a taxpayer that—
- (a) is approved under section 45D:
 - (b) uses a large business AIM-capable system.
- (2) This section applies for the 2018–19 and later income years.

Part 3**Business tax and remedial matters**

Subpart 1—Amendments to Income Tax Act 2007

61 Income Tax Act 2007 amended

This subpart amends the Income Tax Act 2007.

62 Section CB 6A amended (Disposal within 2 years: bright-line test for residential land)

- (1) After section CB 6A(4), insert:
- Start of 2-year period for transfers by registration if trustees change*
- (4B) If the person referred to in subsection (1)(a) or (2)(a) is a trustee of a trust who has been transferred the land or undivided land from a trustee of the trust, the date on which the instrument was registered is treated as occurring on—
- (a) for subsection (1)(a)—
 - (i) the earliest date (**first date**) on which an instrument to transfer the land to a trustee of the trust was registered under the relevant law

- referred to in the subsection, if there has been no intervening transfer to a person who is not a trustee; or
 - (ii) the first date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee:
- (b) for subsection (2)(a)—
- (i) the earliest date (the **undivided date**) on which an instrument to transfer the undivided land to a trustee of the trust was registered under the relevant law referred to in the subsection, if there has been no intervening transfer to a person who is not a trustee; or
 - (ii) the undivided date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.

- (2) In section CB 6A, in the list of defined terms, insert “trustee”.

63 Section CB 15B amended (When land acquired)

Replace section CB 15B(3) with:

Second exception: further land from exercise of option

- (3) If a person who has an estate or interest in land has subsequently, as a consequence of the person’s exercise of an option, another estate or interest (the **other land interest**) in the same land, the person is treated for the purposes of this subpart as having the other land interest from the time of the exercise of the option.

64 Section CB 15B amended (When land acquired)

Replace section CB 15B(3) with:

Second exception: land from exercise of option

- (3) A person that exercises an option to acquire land and acquires the land, is treated as acquiring the land at the time when they exercise the option.

65 Section CD 32 amended (Employee benefits)

- (1) Replace section CD 32(1), other than the heading, with:

- (1) A benefit provided to an employee is not a dividend if—
- (a) it is a fringe benefit subject to fringe benefit tax; or
 - (b) it would be a fringe benefit subject to fringe benefit tax if an election had not been made under section CX 17(4B) (Benefits provided to employees who are shareholders or investors).

- (2) In section CD 32, in the list of defined terms, insert “employee”.

- (3) This section applies for the 2017–18 and later income years.

66 Section CE 2 amended (Value and timing of benefits under share purchase agreements)

- (1) Replace section CE 2(11), other than the heading, with:
- (11) The employee is treated as deriving employment income in relation to the benefit in the PAYE income payment form period after the 1 in which they receive the benefit.
- (2) In section CE 2, in the list of defined terms, insert “PAYE income payment form period”.
- (3) This section applies for the 2017–18 and later income years.

67 Section CX 6 amended (Private use of motor vehicle)

- (1) After section CX 6(2), insert:
Exclusion: election by close company
- (2B) Subsection (1) does not apply if the employee is a shareholder-employee of a close company and the close company made an election under section CX 17(4B) to apply subpart DE (Motor vehicle expenditure) instead of the FBT rules.
- (2) In section CX 6, in the list of defined terms, insert “close company”, “FBT rules”, and “shareholder-employee”.
- (3) This section applies for the 2017–18 and later income years.

68 Section CX 17 amended (Benefits provided to employees who are shareholders or investors)

- (1) In the title to section CX 17(3), replace “*Exclusion*” with “*Exclusion: benefit provided to non-executive director*”.
- (2) After section CX 17(4), insert:
Exclusion: election by close company
- (4B) Despite subsection (4), subsection (2) does not apply and the benefit is neither a fringe benefit nor a dividend in an income year if—
 - (a) the benefit—
 - (i) arises when a close company makes a motor vehicle available to a shareholder-employee for their private use; and
 - (ii) would, in the absence of this subsection, be a fringe benefit arising under section CX 6; and
 - (b) the total benefits the close company provides to all employees in the income year are 1 or 2 of the benefits described in paragraph (a); and
 - (c) the close company chooses to apply subpart DE (Motor vehicle expenditure) for the motor vehicle and the shareholder-employee instead of the FBT rules.

When election may be made

- (4C) An election by a close company under subsection (4B) may be made for the income year which includes the day on which the close company—
- (a) acquires the motor vehicle; or
 - (b) first starts using the motor vehicle for business use.

Election continues to apply

- (4D) An election under subsection (4B) applies for the income year described in subsection (4C), and continues to apply until the end of the income year that includes the earlier of—
- (a) the day on which the close company stops using the motor vehicle for business use; or
 - (b) the day on which the close company disposes of the motor vehicle.

- (3) In the title to section CX 17(5), replace “election” with “election under subsection (2)”.
- (4) After section CX 17(5), insert:

Notice of election under subsection (4B)

- (5B) The close company must give notice to the Commissioner of an election referred to in subsection (4B) in the time allowed for filing a return of income for the income year in which the election was made.
- (5) In section CX 17, in the list of defined terms, insert “business use”, “close company”, “income year”, “motor vehicle”, “return of income”, and “shareholder-employee”.
- (6) This section applies for the 2017–18 and later income years.

69 Section DB 7 amended (Interest: most companies need no nexus with income)

- (1) After section DB 7(6), insert:

Relationship with subpart DE

- (6BA) Subpart DE (Motor vehicle expenditure) overrides this section for expenditure to which that subpart relates, if a company is a close company that has chosen to apply that subpart instead of the FBT rules, in accordance with section CX 17(4B)(c) (Benefits provided to employees who are shareholders or investors).
- (2) In section DB 7, in the list of defined terms, insert “close company” and “FBT rules”.
- (3) This section applies for the 2017–18 and later income years.

70 Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)

- (1) After section DB 8(6), insert:

Relationship with subpart DE

- (6BA) Subpart DE (Motor vehicle expenditure) overrides this section for expenditure to which that subpart relates, if a company is a close company that has chosen to apply that subpart instead of the FBT rules, in accordance with section CX 17(4B)(c) (Benefits provided to employees who are shareholders or investors).
- (2) In section DB 8, in the list of defined terms, insert “close company” and “FBT rules”.
- (3) This section applies for the 2017–18 and later income years.

71 New section DB 18AA inserted (Square metre rate method)

- (1) Before section DB 18A, insert:

DB 18AA Square metre rate method*When this section applies*

- (1) A person may choose to apply this section to determine the amount of a deduction, in an income year, for the proportion of business use of a building (the **premises**) that is used partly for business purposes and partly for other purposes.

Amount of deduction

- (2) The amount of the deduction allowed in an income year for the business use of the premises is calculated using the formula—
- $$\begin{aligned} & \text{(total premise costs} \times \text{business proportion)} + \\ & \text{(business square metres} \times \text{square metre rate)}. \end{aligned}$$

Definition of items in formula

- (3) In the formula,—
- (a) **total premise costs** is the total amount of actual mortgage interest, rates, and rent that the person has paid with respect to the premises in the income year:
- (b) **business proportion** is determined by dividing business square metres by the total area of the premises in square metres:
- (c) **business square metres** is the total area, in square metres, of any separately identifiable parts of the premises that are used primarily for business purposes:
- (d) **square metre rate** is the applicable square metre rate that is published by the Commissioner.

No other deductions allowed

- (4) A person who makes an election to apply this section under subsection (1) is not entitled to claim any other deductions for the business use of the premises.

Setting square metre rates

- (5) For the purposes of this section, the Commissioner must from time to time set and publish square metre rates.

Defined in this Act: amount, business use, Commissioner, deduction, income year

- (2) This section applies for the 2017–18 and later income years.

72 Section DE 1 amended (What this subpart does)

- (1) Replace section DE 1(2)(a) with:

(a) to a company, unless the company is a close company to which section CX 17(4B)(b) and (c) (Benefits provided to employees who are shareholders or investors) applies:

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

Application of subpart to close companies

- (3) When this subpart applies to a close company to which section CX 17(4B)(b) and (c) (Benefits provided to employees who are shareholders or investors) applies, business use of a motor vehicle by a shareholder-employee of the close company is treated as being business use by the close company.

- (3) In section DE 1, in the list of defined terms, insert “close company”.

- (4) This section applies for the 2017–18 and later income years.

73 Section DE 2 amended (Deductions for business use)

- (1) After section DE 2(1)(a), insert:

(ab) interest on amounts used to fund, directly or indirectly, expenditure the person incurs for the business use of a motor vehicle, if the person is a close company that has chosen to apply this subpart instead of the FBT rules, in accordance with section CX 17(4B)(c) (Benefits provided to employees who are shareholders or investors):

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

Costs method or kilometre rate method

- (1B) A person can choose under section DE 2B to calculate the total amount of the deduction described in subsection (1)—

(a) under subsections (2) and (4) (the **costs method**) by adding together—
(i) a deduction amount for expenditure, calculated under subsection (2); and
(ii) a deduction amount for depreciation loss, calculated as described in subsection (4); or

(b) by using the kilometre rate method described in section DE 12.

- (3) In section DE 2(3), replace “DE 3 to DE 12” with “DE 3 to DE 11”.

- (4) In section DE 2(6)(b), replace “DE 3 to DE 12” with “DE 3 to DE 11”.

- (5) In section DE 2(12)(b), replace “DE 3 to DE 12” with “DE 3 to DE 11”.
- (6) This section applies for the 2017–18 and later income years.

74 New section DE 2B inserted (Election to use kilometre rate method or costs method)

- (1) After section DE 2, insert:

DE 2B Election to use kilometre rate method or costs method

Election to use kilometre rate method

- (1) A person may, in their return of income for an income year, choose to apply the kilometre rate method described in section DE 12 to calculate a deduction for the business use of a motor vehicle and for the income year that includes the latest of—
 - (a) 1 April 2017, unless the person disposes of the motor vehicle in that income year:
 - (b) the day on which they acquire the motor vehicle:
 - (c) the day on which they first start using the motor vehicle for business purposes.

Election to use costs method

- (2) If a person does not make an election under subsection (1), they are treated as making an election in the return of income to use the costs method for the corresponding income year.

Election cannot be revoked

- (3) An election made under subsection (1) or (2) in relation to a particular motor vehicle cannot be revoked, and applies for all subsequent income years until the end of the income year that includes the day on which the person disposes of the motor vehicle.

Defined in this Act: business, business use, deduction, income year, motor vehicle, return of income

- (2) This section applies for the 2017–18 and later income years.

75 Section DE 3 amended (Methods for calculating proportion of business use)

- (1) In section DE 3, in the words before paragraph (a), replace “3 methods” with “2 methods”.
- (2) In section DE 3(b), replace “DE 11:” with “DE 11.”
- (3) Repeal section DE 3(c).
- (4) This section applies for the 2017–18 and later income years.

76 Section DE 4 amended (Default method for calculating proportion of business use)

- (1) Replace section DE 4(1)(c) with:

(c) the person has not elected to use the kilometre rate method for the motor vehicle.

(2) This section applies for the 2017–18 and later income years.

77 Heading and section DE 12 replaced

(1) Replace the heading before section DE 12 and section DE 12 with:

Kilometre rates

DE 12 Kilometre rate method

When this section applies

(1) This section applies for the purposes of calculating a deduction for the business use of a motor vehicle under section DE 2(1) if a person made an election under section DE 2B to apply this section.

Amount of deduction

(2) The amount of the deduction allowed for the business use of the vehicle in an income year is the sum of the amounts calculated under the following formula for each applicable kilometre rate for the vehicle for the income year:

$$\text{kilometre rate} \times \text{kilometres travelled} \times \text{business proportion.}$$

Definition of items in formula

(3) In the formula,—

(a) **kilometre rate** is the applicable kilometre rate that is published by the Commissioner:

(b) **kilometres travelled** is the total number of kilometres the vehicle has travelled, for both business purposes and other purposes, to which the applicable kilometre rate applies:

(c) **business proportion** is the proportion of business use of the vehicle for the income year, calculated using a method described in sections DE 5 to DE 11, and expressed as a decimal.

Setting kilometre rates

(4) For the purposes of this section, the Commissioner must from time to time set and publish kilometre rates.

Defined in this Act: amount, business, business use, Commissioner, deduction, income year, motor vehicle

(2) This section applies for the 2017–18 and later income years.

78 Section DF 4 amended (Payments for social rehabilitation)

Replace section DF 4(3)(b) with:

(b) **tax rate** is the rate of tax applying to the personal service rehabilitation payment under section RD 10B (Amounts of tax for schedular payments).

79 Section EA 4 amended (Deferred payment of employment income)

- (1) After section EA 4(1)(b)(i), insert:
- (ib) the income year, if they choose, in a return of income, to not use paragraph (i) or (ii); or
- (2) This section applies for the 2017–18 and later income years.

80 Section EE 49 amended (Amount of depreciation recovery income when item partly used for business)

- (1) After section EE 49(2), insert:
- No depreciation recovery income*
- (2B) Despite subsections (1) and (2), there is no depreciation recovery income under this section for a motor vehicle which is dealt with under subpart DE if the person has made an election under section DE 2B(1) (Election to use kilometre rate method or costs method) to use the kilometre rate method described in section DE 12 (Kilometre rate method) for that vehicle.
- (2) This section applies for the 2017–18 and later income years.

81 Section HD 3 amended (Agent’s duties and liabilities)

- (1) In section HD 3(1), delete “a business carried on in New Zealand by”.
- (2) In section HD 3, in the list of defined terms, delete “business” and “New Zealand”.

82 Section LB 7 amended (Tax credits related to personal service rehabilitation payments: providers)

Replace section LB 7(4)(b) with:

- (b) **tax rate** is the rate of tax applying to the personal service rehabilitation payment under section RD 10B (Amounts of tax for schedular payments).

83 Section LB 8 amended (Tax credits related to personal service rehabilitation payments: payers)

Replace section LB 8(3)(c) with:

- (c) **tax rate** is the rate of tax applying to the personal service rehabilitation payment under section RD 10B (Amounts of tax for schedular payments).

84 Section MD 9 amended (Fifth requirement: full-time earner)

Replace section MD 9(2)(d)(i) with:

- (i) by a person (the **claimant**), who receives a personal service rehabilitation payment from which an amount of tax has been withheld at a rate specified in section RD 10B (Amounts of tax for schedular payments); and

85 Table R1 amended (Summary of instalment dates and calculation methods for provisional tax)

- (1) In table R1, in the row labelled “Standard RC 5(2), (3)”, replace “120KE(1), (2)” with “120KBB, 120KE(1), (2)”.
- (2) This section applies for the 2017–18 and later income years.

86 Section RD 3 amended (PAYE income payments)

Replace section RD 3(1)(b)(iii) with:

- (iii) an amount paid or benefit provided, by a person (the **claimant**), who receives a personal service rehabilitation payment from which an amount of tax has been withheld at a rate specified in section RD 10B.

87 Section RD 6 amended (Certain benefits and payments)

- (1) Replace sections RD 6(3)(a), (ab), and (b) with:

- (a) for a benefit referred to in subsection (1)(d),—
 - (i) for an employer described in section CE 2(10) (Value and timing of benefits under share purchase agreements), on the first day of the PAYE income payment form period in which the employee derives the benefit under section CE 2(11) (Value and timing of benefits under share purchase agreements); or
 - (ii) for employers not described in section CE 2(10), on the date the benefit vests in the employee:
- (b) for a benefit referred to in subsection (1)(a) to (c) that constitutes the only salary or wages of the employee, on the last day of the pay period:
- (c) for a benefit that paragraphs (a) and (b) do not apply to, when the last amount of salary or wages for the pay period is paid.

- (2) In section RD 6, in the list of defined terms, insert “PAYE income payment form period”.
- (3) This section applies for the 2017–18 and later income years.

88 Section RD 7B amended (Treatment of certain benefits under employee share agreements)

- (1) In section RD 7B(3)(c), replace “RD 6(3)(ab)” with “RD 6(3)(a)”.
- (2) This section applies for the 2017–18 and later income years.

89 Section RD 8 amended (Schedular payments)

- (1) In section RD 8(1)(a)(i), replace “Rates of tax for schedular payments” with “Standard rates of tax for schedular payments”.
- (2) In section RD 8(1)(b)(iii), after “non-resident entertainer,” insert “a company in relation to a payment described in schedule 4, part J or part W,”.

90 Section RD 10 amended (Amounts of tax for PAYE income payments)

Replace section RD 10(3)(a) with:

- (a) under section RD 10B; and

91 New section RD 10B inserted (Amounts of tax for schedular payments)

After section RD 10, insert:

RD 10B Amounts of tax for schedular payments

When this section applies

- (1) This section applies to determine the amount of tax for a schedular payment for the purposes of section RD 10(3)(a).

Rate when no notification

- (2) The person making the schedular payment must withhold, as tax,—
- (a) 45% of the schedular payment, if the person has not been notified of the payee's name and tax file number under section 24L of the Tax Administration Act 1994 and paragraph (b) does not apply:
- (b) 20% of the schedular payment, if the person has not been notified of the payee's name and tax file number under section 24L of the Tax Administration Act 1994 and the payee is a company that is a non-resident contractor.

Basic rates

- (3) If the person making the schedular payment has been notified of the payee's name and tax file number under section 24L of the Tax Administration Act 1994, the tax rate that applies to a schedular payment is—
- (a) the payee's elected rate under section 24LB of the Tax Administration Act 1994, if the payee chooses an elected rate under that section and paragraph (c) of this subsection does not apply:
- (b) the relevant rate set out in schedule 4 (Standard rates of tax for schedular payments), if the payee does not choose an elected rate under section 24LB of the Tax Administration Act 1994 and paragraph (c) of this subsection does not apply:
- (c) if the Commissioner has provided the payee with a special tax rate certificate under section 24N of the Tax Administration Act 1994, the tax rate set out in the certificate.

Commissioner prescribed tax rate and deduction amount

- (4) Despite subsection (3), if the person making the schedular payment has been notified of an applicable tax rate prescribed by the Commissioner under section 24LC(1) of the Tax Administration Act 1994, the person must use that prescribed and notified tax rate for the payment. The person must also deduct or

extract from schedular payments payable to the payee, the amount prescribed under section 24LC(3) of that Act and pay it to the Commissioner.

Non-resident entertainer rate

- (5) Despite subsections (2), (3), and (4), the tax rate, if the payee is a non-resident entertainer, is 0.20.

Defined in this Act: amount of tax, company, non-resident contractor, non-resident entertainer, notify, pay, schedular payment, tax, tax file number

92 Section RD 18 repealed (Schedular payments without notification)

Repeal section RD 18.

93 Section RD 60 amended (Close company option)

- (1) In section RD 60(1)(a), replace “\$500,000; or” with “\$1,000,000; or”.
- (2) This section applies for the 2017–18 and later income years.

94 Section RD 61 amended (Small business option)

- (1) In section RD 61(1)(a), replace “\$500,000; or” with “\$1,000,000; or”.
- (2) This section applies for the 2017–18 and later income years.

95 Section RL 1 amended (Residential land withholding tax)

After section RL 1(4), insert:

When this subpart does not apply: relationship property

- (4B) This subpart does not apply if section FB 3A(2) (Residential land) applies for the disposal of the relevant residential land.

96 Section RL 2 amended (Vendors: who must pay, and how?)

In section RL 2,—

- (a) in subsection (6)(a), replace “purchase” with “purchase amount”; and
- (b) in subsection (6)(b), replace “purchase” with “purchase amount”; and
- (c) in subsection (8), in the words before the paragraphs, replace “purchase” with “purchase amount”.

97 Section RL 4 amended (How much RLWT?)

In section RL 4(1), replace “residential land purchase amount.” with “residential land purchase amount. All amounts in this section are GST exclusive.”

98 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) In the definition of **agricultural, horticultural, or viticultural company**, replace “Rates of tax for schedular payments” with “Standard rates of tax for schedular payments”.

- (3) In the definition of **contract payment**, paragraph (c), replace “Rates of tax for schedular payments” with “Standard rates of tax for schedular payments”.
- (4) In the definition of **employee**, in paragraph (c)(ii), replace “parts A and I (Rates of tax for schedular payments)” with “parts A, I, and W (Standard rates of tax for schedular payments)”.
- (5) In the definition of **employer**, paragraph (c)(ii), replace “parts A and I (Rates of tax for schedular payments)” with “parts A, I, and W (Standard rates of tax for schedular payments)”.
- (6) In the definition of **initial provisional tax liability**,—
- (a) replace paragraph (a) with:
- (a) for a person who is not a natural person, or a person who is a natural person and a trustee of a trust, a provisional tax liability for a tax year in which the person starts to derive income from a taxable activity when—
- (i) they did not derive income from a taxable activity in any of the 4 previous tax years; and
- (ii) they have residual income tax of \$60,000 or more in the tax year; and
- (b) in paragraph (b)(ii), replace “\$50,000” with “\$60,000”.
- (7) In the definition of **offshore RLWT person**,—
- (a) in paragraph (c)(iv), delete “a partner in”; and
- (b) in paragraph (c)(vi), replace “partner in a limited partnership or an owner of an effective look-through interest in a look-through company” with “limited partnership or a look-through company”.
- (8) In the definition of **Part F activity**, replace “Rates of tax for schedular payments” with “Standard rates of tax for schedular payments”.
- (9) Insert, in appropriate alphabetical order:
- PAYE income payment form period** means the payment period for which an employer must provide a PAYE income payment form under section RD 22(2) (Returns for amounts of tax paid to Commissioner)

99 Schedule 4 amended (Rates of tax for schedular payments)

- (1) Replace the heading to schedule 4 with “**Standard rates of tax for schedular payments**”.
- (2) In schedule 4, part A, clause 1, replace “0.15 rate of tax” with “standard rate of tax of 0.15”.
- (3) In schedule 4, part B, clause 1, replace “0.33 rate of tax” with “standard rate of tax of 0.33”.
- (4) In schedule 4, part B, clause 1B, replace “0.33 rate of tax” with “standard rate of tax of 0.33”.

- (5) In schedule 4, part C, clause 1, replace “0.15 rate of tax” with “standard rate of tax of 0.15”.
- (6) In schedule 4, part D, clause 1, replace “0.20 rate of tax” with “standard rate of tax of 0.20”.
- (7) In schedule 4, part D, clause 2, replace “0.15 rate of tax” with “standard rate of tax of 0.15”.
- (8) In schedule 4, part E, clause 1, replace “0.20 rate of tax” with “standard rate of tax of 0.20”.
- (9) In schedule 4, part F, clause 1, replace “0.25 rate of tax” with “standard rate of tax of 0.25”.
- (10) In schedule 4, part F, clause 2, replace “0.20 rate of tax” with “standard rate of tax of 0.20”.
- (11) In schedule 4, part F, clause 3, replace “0.20 rate of tax” with “standard rate of tax of 0.20”.
- (12) In schedule 4, part F, clause 4, replace “0.20 rate of tax” with “standard rate of tax of 0.20”.
- (13) In schedule 4, part F, clause 5, replace “0.20 rate” with “standard rate of tax of 0.20”.
- (14) In schedule 4, part F, clause 6, replace “0.15 rate” with “standard rate of tax of 0.15”.
- (15) In schedule 4, part G, clause 1, replace “0.20 rate of tax” with “standard rate of tax of 0.20”.
- (16) In schedule 4, part H, clause 1, replace “0.25 rate of tax” with “standard rate of tax of 0.25”.
- (17) In schedule 4, part H, clause 2, replace “0.25 rate of tax” with “standard rate of tax of 0.25”.
- (18) In schedule 4, part I, clause 1, replace “0.105 rate of tax” with “standard rate of tax of 0.105”.
- (19) In schedule 4, after part I, insert:

Part J

Payments under labour-hire arrangements

- 1 A payment by a person (the **payer**) to another person (the **payee**) has a standard rate of tax of 0.20 for each dollar of the payment if—
 - (a) 1 of the payer’s main activities is the business of arranging for a person or persons to perform work or services directly for clients of the payer; and
 - (b) the payment is made under an arrangement the performance of which, in whole or in part, involves the performance of work or services by the

- payee directly for a client of the payer, or directly for a client of another person; and
- (c) in the case of the payer and the payee being associated persons described in section YB 2 or YB 3, the payer has chosen to apply this part to the payment.

(20) In schedule 4, after part J, insert:

Part W
Voluntary schedular payments

- 1 A payment to a person is treated as a schedular payment (a **voluntary schedular payment**) and has a standard rate of tax of 0.20 for each dollar of the payment if—
- (a) there is no obligation to withhold an amount from the payment under this Act or under the Tax Administration Act 1994; and
- (b) the payer and the payee have agreed that the payment is a voluntary schedular payment, and have recorded their agreement in a document.

(21) Subsection (19) applies,—

- (a) on or after 1 April 2017; or
- (b) if the payer is unable to have systems in place for reasonably cost-effective compliance with subsection (19) before 1 April 2017, on or after the earliest of the following dates:
- (i) 1 July 2017;
- (ii) the date on which the payer has systems in place for reasonably cost-effective compliance with subsection (19).

Subpart 2—Amendments to Tax Administration Act 1994

100 Tax Administration Act 1994 amended

This subpart amends the Tax Administration Act 1994.

101 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) Insert, in appropriate alphabetical order:
approved credit reporting agency is defined in section 85N for the purposes of Part 4
- (3) Insert, in appropriate alphabetical order:
credit report is defined in section 85N for the purposes of Part 4
- (4) Insert, in appropriate alphabetical order:

interest concession provisional taxpayer is defined in section 120KBB(4) for the purposes of Part 7

- (5) Insert, in appropriate alphabetical order:

provisional tax associate is defined in section 120KBB(4) for the purposes of Part 7

- (6) Insert, in appropriate alphabetical order:

provisional tax interest avoidance arrangement is defined in section 120KBB(4) for the purposes of Part 7

- (7) Insert, in appropriate alphabetical order:

reportable unpaid tax is defined in section 85N for the purposes of Part 4

102 Section 24G amended (Use of incorrect tax codes)

- (1) In the title to section 24G, after “**tax codes**”, insert “**or tax rates**”.
- (2) In section 24G(1), after “tax code”, insert “or tax rate”.
- (3) In section 24G(2), replace “incorrect code and provide the tax code” with “incorrect code or tax rate, and provide the correct tax code and tax rate, as required.”.
- (4) In section 24G(3), replace “tax code” with “tax code or tax rate”, in each place where it appears.

103 Section 24L amended (Schedular notification)

Replace section 24L(2) with:

- (2) Before the person (the **payee**) receives the schedular payment, the payee must give the person making the payment a notice that states—
 - (a) if the payee has elected a tax rate to be applied to the schedular payment, as provided by section 24LB, that elected tax rate:
 - (b) if the Commissioner has notified the payee that a different tax rate applies to the schedular payment, as provided by section 24LC, that different tax rate:
 - (c) the payee’s name and tax file number.

104 New sections 24LB and 24LC inserted

After section 24L, insert:

24LB Schedular tax rate elected by payee

- (1) A person who is entitled to receive a schedular payment (the **payee**) may choose the tax rate, to 1 decimal place, to be applied to the payment for the purposes of section RD 10B(3)(a) of the Income Tax Act 2007 (the **elected rate**).
- (2) The elected rate must be a minimum of—

- (a) 15% if the payee is—
 - (i) a non-resident;
 - (ii) a holder of a temporary entry class visa as defined in section 4 of the Immigration Act 2009; or
 - (b) 10% for all other payees.
- (3) Despite subsection (1), if the payee has notified a person making a schedular payment (the **payer**) of 2 different elected rates within 12 months of each other, then the last notified rate is the elected rate, and the payee may not choose another elected rate in relation to the payer within a 12 month period of the first notified rate.
- (4) Despite subsection (3), the payee may choose another elected rate under subsection (1) in relation to the payer in the 12 month period and notify it to the payer, if the payer and the payee agree that the payee may choose and notify that other rate.

24LC Schedular tax rate prescribed by Commissioner

- (1) Where a person who is entitled to receive a schedular payment (a **payee**) has not met a liability under the Inland Revenue Acts, the Commissioner may prescribe the tax rate to be applied to the payee's schedular payments by notifying the rate to—
- (a) the payee; or
 - (b) the payee and a person (a **payer**) making a schedular payment to the payee.
- (2) Upon the request of the payee, the Commissioner must rescind a rate prescribed and notified under subsection (1), by notifying the relevant persons described in subsection (1), if the Commissioner is satisfied that all liabilities under the Inland Revenue Acts have been met, and is reasonably satisfied that all liabilities under the Inland Revenue Acts will be met in the future.
- (3) The Commissioner may also prescribe and notify, at the same time as prescribing and notifying a tax rate under subsection (1), a percentage of the payee's schedular payments that payers must—
- (a) deduct or extract from schedular payments payable to the payee; and
 - (b) pay to the Commissioner.
- (4) Upon the request of the payee, the Commissioner must rescind a percentage prescribed and notified under subsection (3), by notifying the payer, if the Commissioner is satisfied that the payee has paid all tax due and payable.
- (5) The tax rate prescribed under subsection (1) and the percentage prescribed under subsection (3) must not total more than 50%.

- (6) An amount received by the Commissioner under subsection (3) is to the credit of the payee's liabilities under the Inland Revenue Acts and is not a tax credit under part L of the Income Tax Act 2007.
- (7) The Commissioner may revoke or prescribe and notify a new tax rate under subsection (1) and percentage under subsection (3) from time to time.
- (8) The Commissioner does not have to notify the payee under subsection (1)(b), if, after making reasonable inquiries, the Commissioner does not have a valid address for the payee.

105 Section 24M amended (Exemption certificates for schedular payments)

- (1) Replace section 24M(2) with:
 - (2) Subsection (1) does not apply to a payment—
 - (a) to a non-resident entertainer:
 - (b) that is a payment, described in schedule 4, part J of the Income Tax Act 2007, to a New Zealand resident.
- (2) After section 24M(6), insert:
 - (7) A person who is provided with an exemption certificate before 1 April 2017 for a period ending on or after 1 April 2017 is treated as having a special rate certificate under section 24N with a 0% rate for schedular payments the person is entitled to receive, to the extent to which—
 - (a) the schedular payments—
 - (i) are received between 31 March 2017 and 1 April 2018; or
 - (ii) if the period set out in the certificate of exemption ends before 31 March 2018, are received before the end of that period; and
 - (b) the certificate of exemption is not in force on or after 1 April 2017 because of amendments made to this Act by the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017.

106 Section 32H amended (Providing RWT exemption certificate when person meets requirements)

- (1) In section 32H(2), replace “The certificate is valid from the starting date set out in the certificate.” with “The certificate is valid on and after the starting date set out in the certificate, and is valid for an unlimited period if no end date is specified under subsection (3).”
- (2) Replace section 32H(3) with:
- (3) An end date—
 - (a) must be set out in the certificate by the Commissioner if the person is described in section 32E(2)(j):
 - (b) may be set out in the certificate by the Commissioner in exceptional circumstances.

107 Section 32I amended (Providing RWT exemption certificate to person who does not meet requirements)

- (1) In section 32I(1), replace “a period” with “a period, including an unlimited period.”.
- (2) In section 32I(4), replace “at the expiry date set out in the certificate” with “at the end date set out in the certificate, or at the date notified to the person by the Commissioner if no end date is set out in the certificate”.

108 Section 35 amended (Power of Commissioner to prescribe forms)

After section 35(1), insert:

- (2) For the purposes of the Inland Revenue Acts, the Commissioner may allow a person to provide the information required in a prescribed form in a manner other than writing if the Commissioner is satisfied that in the circumstances it is appropriate.

109 Section 54E amended (RLWT certificate of exemption)

Replace section 54E(3)(b) and (c) with:

- (b) has had tax obligations under the Inland Revenue Acts (**obligations**) for the 2 years before applying for the certificate, or has an associate (the **counted associate**) that has had obligations for the 2 years before the person applies for the certificate and the counted associate is,—
 - (i) in the same group of companies as the person; or
 - (ii) if the person is a limited partnership, a partner of the person; and
- (c) has complied with all obligations for the 2 years before the person applies for the certificate, or the counted associate has complied with all obligations for the 2 years before the person applies for the certificate.

110 Section 81 amended (Officers to maintain secrecy)

After section 81(4)(s), insert:

- (sb) communicating, for the purpose of section 85M, information relating to some offences under the Companies Act 1993 to the Registrar of Companies:
- (sc) communicating, for the purpose of section 85N, information relating to a taxpayer and reportable unpaid tax to an approved credit reporting agency:

111 New sections 85M and 85N inserted

After section 85L, insert:

85M Disclosure of information relating to some offences to the Registrar of Companies

- (1) The purpose of this section is to facilitate the exchange between the Commissioner and the Registrar of Companies (the **Registrar**) of information for the purpose of preventing, detecting, investigating, or providing evidence of, some offences under the Companies Act 1993 that have been, are being, or will be committed.
- (2) The Commissioner may communicate the information only if—
 - (a) the Commissioner or the Registrar reasonably suspects that—
 - (i) an offence under section 138A(1), 377, 382(4), 383(6), 385(9), 385AA(9), or 386A(2) of the Companies Act 1993 has been, is being, or will be committed; and
 - (ii) the information is relevant for the purposes of preventing, detecting, investigating, or providing evidence of, the offence; and
 - (b) the Commissioner is satisfied that the information is readily available, that it is reasonable and practicable to communicate the information, and that communication of the information is in the public interest.

85N Disclosure of information to approved credit reporting agencies

- (1) The purpose of this section is to facilitate the exchange between the Commissioner and approved credit reporting agencies of information relating to a taxpayer's reportable unpaid tax.
- (2) Subsections (4), (5), and (6) apply when—
 - (a) a taxpayer has an amount of reportable unpaid tax; and
 - (b) the Commissioner has formally notified the taxpayer that—
 - (i) the taxpayer has reportable unpaid tax; and
 - (ii) the Commissioner may give an approved credit reporting agency information in relation to the taxpayer and any amount of reportable unpaid tax under this section; and
 - (c) the Commissioner has made reasonable efforts to recover reportable unpaid tax from the taxpayer before the day on which the taxpayer is formally notified under paragraph (b); and
 - (d) 30 days after the formal notification under paragraph (b),—
 - (i) the taxpayer has an amount of reportable unpaid tax that is greater than the amount prescribed, from time to time, by the Governor-General by Order in Council:
 - (ii) the taxpayer has an amount of reportable unpaid tax that has been unpaid for a year, and, in the Commissioner's judgement, the proportion of the unpaid amount to the taxpayer's assessable income for that year is 30% or more.

- (3) Subsections (4), (5), and (6) also apply when—
- (a) a taxpayer has an amount of reportable unpaid tax; and
 - (b) the Commissioner has formally notified the taxpayer that—
 - (i) the taxpayer has reportable unpaid tax; and
 - (ii) the Commissioner may give an approved credit reporting agency information in relation to the taxpayer and any amount of reportable unpaid tax under this section; and
 - (c) the Commissioner has formally notified the taxpayer under subsection (2)(b) twice in the year before the notice in paragraph (b) of this subsection, but did not communicate information relating to the taxpayer under subsection (4) or (5) in the year, because the taxpayer partially paid the total relevant amount of reportable unpaid tax; and
 - (d) the Commissioner has made reasonable efforts to recover an amount of reportable unpaid tax from the taxpayer before the day on which the taxpayer is formally notified under paragraph (b) of this subsection.
- (4) The Commissioner may communicate to an approved credit reporting agency information relating to the taxpayer and any amount of reportable unpaid tax for the purposes of—
- (a) enabling the approved credit reporting agency to include information in the taxpayer's credit report; and
 - (b) evidencing and maintaining the accuracy of the credit report in relation to the information.
- (5) The Commissioner may also communicate to an approved credit reporting agency information for the purposes described in subsection (4) if—
- (a) the information relates to the taxpayer and any amount that would be reportable unpaid tax if it was not subject to an instalment arrangement requested by the taxpayer and entered into by the Commissioner (the **instalment arrangement**); and
 - (b) the instalment arrangement was entered into by the Commissioner after the Commissioner has communicated to an approved credit reporting agency information relating to the taxpayer under subsection (4).
- (6) The Commissioner may not communicate to an approved credit reporting agency until the Commissioner has finished considering an application under section 177 or 183H, if the application was made in the 30 days after the day on which the taxpayer is formally notified under subsection (2)(b) or (3)(b).
- (7) The Commissioner must publish annually, in a publication chosen by the Commissioner, the following:
- (a) the number of taxpayers that the Commissioner has formally notified under this section in the previous tax year; and

- (b) the number of taxpayers that the Commissioner has communicated information in relation to, under subsection (4) or (5), in the previous tax year; and
 - (c) the number of taxpayers that the Commissioner has formally notified and communicated information in relation to, under subsection (4) or (5), but who paid the total relevant amount of reportable unpaid tax in the previous tax year; and
 - (d) any other matter relating to the Commissioner's use of this section that the Commissioner decides it is appropriate to publish, including revoking an approval under subsection (8).
- (8) The Commissioner may approve, or revoke the approval of, an organisation described in subsection (9)(a), if the approval or revocation positively affects the integrity of the tax system.
- (9) For the purposes of this Part, **approved credit reporting agency** means an organisation that—
- (a) carries on a business of reporting to other organisations, for payment, information relevant to the assessment of a person's creditworthiness; and
 - (b) is approved by the Commissioner under subsection (8); and
 - (c) the Commissioner has published the name of, in a publication chosen by the Commissioner.
- (10) For the purposes of this Part, **credit report** means credit information about a person that is disclosed by an approved credit reporting agency.
- (11) For the purposes of this Part, **reportable unpaid tax**—
- (a) means, for a taxpayer, unpaid tax—
 - (i) that results from liability for or excess refunds of income tax, excluding refunds under section MF 5 or MF 6 of the Income Tax Act 2007, or is otherwise the overpayment or over-crediting of WFF tax credits; and
 - (ii) that results from liability for or refunds of GST, amounts required to be deducted under the PAYE rules, amounts required to be deducted under the Student Loan Scheme Act 2011, amounts required to be deducted under the Child Support Act 1991, ESCT, RSCT, or any tax credits under Part L of the Income Tax Act 2007 excluding tax credits under section LB 4 of that Act; and
 - (iii) that is not subject to a dispute or challenge under Part 4A or 8A of this Act; and
 - (iv) that is not subject to an instalment arrangement requested by the taxpayer and entered into by the Commissioner; and

- (b) includes, for a taxpayer, unpaid interest under Part 7 and unpaid civil penalties, to the extent to which they relate to an amount of reportable unpaid tax described in paragraph (a).

112 Section 113A amended (Correction of minor errors in subsequent returns)

In section 113A(1)(c), replace “\$500 or less.” with “\$1,000 or less.”

113 Section 120C amended (Definitions)

In section 120C(1), in the definition of **date interest starts**,—

- (a) in paragraph (b), in the words before the subparagraphs, replace “GST” with “a GST refund provided by section 19C(8) or 20(5) of the Goods and Services Tax Act 1985,”;
- (b) in paragraph (c), in the words before the subparagraphs, replace “a GST refund” with “a GST refund provided by section 19C(8) or 20(5) of the Goods and Services Tax Act 1985”;
- (c) repeal paragraph (c)(iii).

114 Section 120KB amended (Provisional tax instalments and due dates generally)

- (1) In section 120KB(4), replace “120KC” with “120KBB”.
- (2) This section applies for the 2017–18 and later income years.

115 New section 120KBB inserted (Interest for most standard method and some estimation method provisional taxpayers)

- (1) After section 120KB, insert:

120KBB Interest for most standard method and some estimation method provisional taxpayers

- (1) This section applies if, for a tax year and a provisional taxpayer (the **person**),—
 - (a) section 120KE does not apply for the person for the tax year (*for example*: a person does not make a required payment, so section 120KE does not apply); and
 - (b) the person is an interest concession provisional taxpayer; and
 - (c) all provisional tax associates of the person that are liable to pay provisional tax are either interest concession provisional taxpayers or use, for the tax year, the GST ratio method described in section RC 5(6) of the Income Tax Act 2007; and
 - (d) there is no provisional tax interest avoidance arrangement in relation to the person.
- (2) If the person pays the amount of the instalments for the tax year other than the last 1, on or before those relevant instalment dates for the tax year in accord-

- ance with sections RC 9 and RC 10 of the Income Tax Act 2007, then, despite section 120KB(2) of this Act,—
- (a) the person's residual income tax for the tax year is not due and payable as set out in section RC 9 of the Income Tax Act 2007 for those relevant instalment dates; and
 - (b) the amount of their residual income tax minus the total amount of those relevant instalments for the tax year is due and payable on the last instalment date for the tax year. A negative amount is treated as overpaid tax on the last instalment date, with nothing due and payable on the date.
- (3) If the person fails to pay the amount of any instalments for the tax year other than the last 1 on or before the relevant instalment dates for the tax year in accordance with sections RC 9 and RC 10 of the Income Tax Act 2007, then, despite section 120KB(2) of this Act,—
- (a) the person's residual income tax is not due and payable as set out in section RC 9 of the Income Tax Act 2007 for an instalment; and
 - (b) the amount of unpaid tax that a person has in relation to an instalment is equal to the lesser of the following amounts, treating a negative amount as zero:
 - (i) 1 divided by the number of instalment dates for the tax year, multiplied by their residual income tax, minus the amount paid in relation to the instalment;
 - (ii) the amount they are liable to pay in accordance with sections RC 9 and RC 10 of the Income Tax Act 2007 in relation to the instalment date minus the amount paid in relation to the instalment date.
- (4) In this Part,—
- (a) **interest concession provisional taxpayer** means a person that is liable to pay provisional tax for an income year if—
 - (i) the person uses 1 of the standard methods described in section RC 5(2) or (3) of the Income Tax Act 2007 for the tax year;
 - (ii) the person uses the estimation method described in section RC 5(5) of that Act but their payments of provisional tax on or before the instalment dates for the tax year, other than the last 1, are not under the estimation method and are equal to the amounts given by section RC 10 of that Act, using section RC 10(3)(a)(i) or (ii) as applicable, for those relevant instalments:
 - (b) **provisional tax interest avoidance arrangement** means an arrangement involving the manipulation of 1 or more amounts of residual income tax, including a zero amount of residual income tax, with the purpose or effect of defeating the intent and application of this Part:
 - (c) **provisional tax associate** means, for a person (**person A**),—

- (i) if person A is a company, another company in the same wholly-owned group of companies as person A:
- (ii) if person A is a company, another person that is associated with person A under section YB 3 of the Income Tax Act 2007, treating section YB 3 as requiring 50% voting interests and market value interests instead of 25% and also ignoring section YB 3(3) and (4):
- (iii) if person A is not a company or is a company acting as a trustee, another person that is associated with person A, treating section YB 3 of the Income Tax Act 2007 as requiring 50% voting interests and market value interests, instead of 25% and also ignoring section YB 3(3) and (4).

(2) This section applies for the 2017–18 and later income years.

116 Section 120KE amended (Provisional tax and rules on use of money interest)

(1) Replace section 120KE(1)(a) with:

- (a) they have paid all instalments under 1 of the standard methods described in section RC 5(2) or (3) of the Income Tax Act 2007 on or before the instalment dates for the tax year in accordance with sections RC 9 and RC 10 of that Act, or they have no obligation to pay provisional tax for the tax year under section RC 3(3) of that Act; and

(2) In section 120KE(1)(b), replace “\$50,000” with “\$60,000”.

(3) Replace section 120KE(1)(e) with:

- (e) there is no provisional tax interest avoidance arrangement in relation to the person.

(4) This section applies for the 2017–18 and later income years.

117 New section 120VC inserted (Interest on some provisional tax)

(1) Before section 120W, insert:

120VC Interest on some provisional tax

No interest shall be payable by the Commissioner under section 120D(3) on an amount of provisional tax prior to the last instalment if section 120KBB applies for the provisional tax.

(2) This section applies for the 2017–18 and later income years.

118 Section 138E amended (Certain rights of challenge not conferred)

In section 138E(1)(e)(iv), replace “138N” with “138N, 139B”.

119 Section 139B amended (Late payment penalty)

- (1) In section 139B(1), replace “the due date (the **default date**)” with “the default date”.
- (2) In section 139B(1)(b), replace “the taxpayer has failed to pay on time” with “the Commissioner determines that the taxpayer has failed to pay on time”.
- (3) In section 139B(1)(c), replace “the taxpayer has paid on time all amounts” with “the Commissioner determines that the taxpayer has paid on time amounts”.
- (4) After section 139B(1), insert:
 - (1B) When determining whether a person has paid amounts of tax on time or failed to pay amounts of tax on time under subsection (1)(b) or (c), the Commissioner has a discretion to ignore any failure to pay tax on time for any tax type that the Commissioner decides it is appropriate to ignore. The discretion may only be exercised if—
 - (a) it is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue Department software platforms; and
 - (b) it does not impose a penalty greater than that which the person would otherwise be liable for in the absence of this subsection.
- (5) Before section 139B(6)(a), insert:
 - (aa) the term **default date** means, for an amount of tax,—
 - (i) its due date; or
 - (ii) its collection date, described in section 142A(6), if the amount has a new due date set under section 142A(5):

120 Section 139B amended (Late payment penalty)

- (1) After section 139B(2), insert:
 - (2B) Despite subsection (2)(b), a taxpayer is not liable to pay an incremental late payment penalty to the extent to which the relevant tax to pay is—
 - (a) GST for a GST return period ending within 8 days of 31 March 2017;
 - (b) GST for a GST return period ending after 31 March 2017;
 - (c) provisional tax or income tax for the 2017–18 or later income years;
 - (d) described in section MF 5 or MF 6 of the Income Tax Act 2007, or is otherwise the overpayment or over-crediting of WFF tax credits, and relates to the 2017–18 or later income years;
 - (e) civil penalties for tax and periods described in paragraphs (a) to (d).
- (2) In section 139B(3B), replace “section 157 of this Act” with “section 24LC(3) or 157 of this Act”.
- (3) In section 139B(5A), replace “section 157 of this Act” with “section 24LC(3) or 157 of this Act”.

- (4) After section 139B(6)(b), insert:
- (bb) for a person that section 120KBB applies to, the term **unpaid tax** includes, for a failure to pay 1 or both of the first 2 instalments of provisional tax on the relevant instalment dates for the tax year, the amount of unpaid tax given by section 120KBB(3) for the date:
- (5) Subsection (4) applies for the 2017–18 and later income years.

121 Section 139BA amended (Imposition of late payment penalties when financial relief sought)

- (1) In section 139BA(1), replace “due date” with “default date”.
- (2) In section 139BA(2), replace “due date” with “default date”.

122 Section 139C amended (Late payment penalty and provisional tax)

- (1) In section 139C(1), replace “Subsection (1B) overrides this subsection” with “Subsection (1B) overrides this subsection and subsection (1D) modifies this subsection”.
- (2) After section 139C(1C), insert:
- (1D) Despite subsection (1), for a person that section 120KBB applies to, the only amount of unpaid tax for a failed instalment described in section 120KBB(3) is the amount of unpaid tax given by section 120KBB(3)(b) for the date.
- (3) This section applies for the 2017–18 and later income years.

123 Section 142A amended (New due date for payment of tax that is not a penalty)

- (1) In section 142A(1), replace “This section applies” with “Subsection (2) applies for a transfer concession tax type”.
- (2) Replace section 142A(5) with:
- (4) Subsections (5), (6), and (7) apply for a tax type that is not a transfer concession tax type if the Commissioner makes for a taxpayer, other than by an assessment (an **electronic default assessment**) made in the absence of a return and to which section 106(2) applies,—
- (a) an assessment (the **new assessment**) of tax for the taxpayer, if the taxpayer has not been assessed earlier for the tax, except by an electronic default assessment:
- (b) an amended assessment (the **increased assessment**)—
- (i) to which paragraph (a) does not apply; and
- (ii) of an amount of tax exceeding the amount for which the taxpayer is liable immediately before the increased assessment; and
- (iii) made less than 30 days before, or on or after, the due date for the tax for which the taxpayer is liable immediately before the increased assessment.

- (5) The date of the notice of the relevant assessment is the due date for the payment of—
- (a) the tax under a new assessment;
 - (b) the increase of tax under an increased assessment.
- (6) Despite subsection (5),—
- (a) the Commissioner must fix a date (the **collection date**) before which the Commissioner must not require payment of the tax or increased tax; and
 - (b) the collection date must be 30 or more days after the due date set under subsection (5); and
 - (c) the Commissioner must not take any action to collect the tax or increased tax before the collection date, other than under section RM 10(3) of the Income Tax Act 2007 or section 46(6) of the Goods and Services Tax Act 1985.
- (7) The Commissioner must give notice, in the notice of assessment, of the collection date and that—
- (a) the Commissioner does not require payment of the tax or increased tax before the collection date; but
 - (b) despite the collection date, any refund of tax that the taxpayer is entitled to may be credited against the tax or increased tax before the collection date, under section RM 10(3) of the Income Tax Act 2007 or section 46(6) of the Goods and Services Tax Act 1985.
- (8) Subsections (5), (6), and (7) do not apply—
- (a) to any provisional tax that remains unpaid on an instalment date; or
 - (b) if the Commissioner has notified the taxpayer before the due date for the payment of the tax that subsections (5), (6), and (7) will not apply in respect of the tax as calculated by the taxpayer, or in respect of an amount of tax estimated by the taxpayer; or
 - (c) if the Commissioner considers that setting a collection date may prejudice the Commissioner's ability to recover the tax or increased tax.
- (9) In this section,—
- (a) **transfer concession tax type** means a tax type for which the Commissioner decides it is appropriate to allow a concession from subsection (4), and the concession is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue Department software platforms;
 - (b) **tax** does not include a civil penalty.

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

Replace section 142B(1)(a)(ii) with:

- (ii) which has a new due date set under section 142A(2), on the due date for the payment of the unpaid tax; or
- (iii) which has a new due date set under section 142A(5), on the collection date, described in section 142A(6), for the unpaid tax:

125 Section 173L amended (Transfer of excess tax within taxpayer's accounts)

- (1) Replace section 173L(1) with:
 - (1) A taxpayer or their agent may request that the Commissioner transfer an amount of the excess to another period or another tax type of the taxpayer. If the date chosen under subsection (2) is after the start of the requested period for the taxpayer, the maximum amount that the Commissioner may transfer is the total of—
 - (a) debt owing by the taxpayer to the Commissioner for the requested period at the date chosen under subsection (2); and
 - (b) the taxpayer's deferrable tax for the requested period at the date chosen under subsection (2); and
 - (c) the amount of an adjustment for the requested period under a notice of proposed adjustment, if there is no deferrable tax under paragraph (b) for the period; and
 - (d) any amount agreed with the Commissioner.
 - (2) In section 173L(2), in the words before the paragraphs, replace "all or part of the excess" with "the amount".
 - (3) In section 173L(2)(a), replace "GST refund" with "GST refund provided by section 19C(8) or 20(5) of the Goods and Services Tax Act 1985".

126 Section 173M amended (Transfer of excess tax to another taxpayer)

- (1) Replace section 173M(1) with:
 - (1) A taxpayer or their agent may request that the Commissioner transfer an amount of the excess to another taxpayer. If the date chosen under subsection (4) is after the start of the requested period for the other taxpayer, the maximum amount that the Commissioner may transfer is the total of—
 - (a) debt owing by that other taxpayer to the Commissioner at the date chosen under subsection (4) for the requested period; and
 - (b) the other taxpayer's deferrable tax at the date chosen under subsection (4) for the requested period; and
 - (c) the amount of an adjustment for the requested period under a notice of proposed adjustment, if there is no deferrable tax under paragraph (b) for the period; and
 - (d) any amount agreed with the Commissioner.
 - (2) Replace section 173M(3) with:

- (3) A taxpayer, being a trustee of a family trust, may request a transfer to a beneficiary of the trust. If the date chosen under subsection (4) is after the start of the requested period for the beneficiary, the maximum amount that the Commissioner may transfer is the total of—
- (a) debt owing by the beneficiary to the Commissioner at the date chosen under subsection (4) for the requested period; and
 - (b) the beneficiary's deferrable tax at the date chosen under subsection (4) for the requested period; and
 - (c) the amount of an adjustment for the requested period under a notice of proposed adjustment, if there is no deferrable tax under paragraph (b) for the period; and
 - (d) any amount agreed with the Commissioner.
- (3) In section 173M(4), in the words before the paragraphs, replace “all or part of the excess” with “the amount”.

127 Section 173S amended (Transfers of interest on overpaid tax)

After section 173S(2), insert:

- (3) If the date under subsection (2) is after the start of the requested period for the taxpayer or the other taxpayer, the maximum amount that the Commissioner may transfer is the total of—
- (a) debt owing by the taxpayer, or by the other taxpayer as the case may be, to the Commissioner for the requested period at the date under subsection (2); and
 - (b) the taxpayer's, or the other taxpayer's as the case may be, deferrable tax for the requested period at the date under subsection (1); and
 - (c) the amount of an adjustment for the requested period under a notice of proposed adjustment, if there is no deferrable tax under paragraph (b) for the period; and
 - (d) any amount agreed with the Commissioner.

128 Section 183C amended (Cancellation of interest)

After section 183C(4), insert:

- (4B) Subsection (4C) applies, if—
- (a) the Commissioner issues another statement of account (the **second statement**) to a taxpayer within 30 days of a statement described in subsection (4) (the **first statement**); and
 - (b) the first and second statements are for GST and penalties related to the GST; and
 - (c) the liability for GST is the same in the first and second statements; and

- (d) the GST and related penalties in the second statement, together with any interest payable under Part 7 in relation to the period before the date of the first statement is paid to the Commissioner on or before the 30th day after the date on which the second statement of account is issued, or the due date of the tax, whichever occurs first.
- (4C) The Commissioner shall cancel the taxpayer's liability to pay interest under Part 7 in relation to the GST and related penalties for the period commencing on the day after the date on which the first statement is issued and ending with the day on which the payment described in subsection (4B)(d) is made.

129 New section 227B (Regulations providing for transitional exemptions and other matters)

After section 227, insert:

227B Regulations providing for transitional exemptions and other matters

- (1) This section provides a regulation-making power for matters relating to the administration of this Act that—
 - (a) arise during the period of co-existence of 2 Inland Revenue software platforms; and
 - (b) affect the application of this Act in relation to 1 or more taxpayers; and
 - (c) make it necessary in order to achieve an orderly transition to the new software platform for amendments to be made to this Act consistent with the purposes of the Inland Revenue Acts.
- (2) The Governor-General may, by Order in Council on the recommendation of the Minister of Revenue, make regulations—
 - (a) providing transitional and savings provisions—
 - (i) concerning the coming into force of provisions affecting the administration of this Act;
 - (ii) that may be in addition to, or in place of, other provisions of this Act;
 - (b) prescribing how provisions of this Act must be applied or modified for the purpose set out in subsection (1):
 - (c) providing that, subject to conditions as may be set out in the regulations, during a specified transitional period,—
 - (i) specified provisions of this Act, including definitions, do not apply, or apply with modifications or additions, or both;
 - (ii) specified terms have the meaning given to them by the regulations;
 - (iii) specified provisions repealed or amended in this Act are to continue to apply:

- (d) specifying categories of persons who may be exempted from some or all of an obligation under this Act;
 - (e) providing for any other matters that may be required to achieve the purpose set out in subsection (1).
- (3) Regulations made under this section may not—
- (a) cause a taxpayer's liability to be more than the liability they would have under this Act if no regulations were made under this section;
 - (b) alter or affect the application of—
 - (i) the care and management provisions in sections 6 and 6A;
 - (ii) the information provisions in sections 16 to 21;
 - (iii) the secrecy provisions in Part 4;
 - (iv) a shortfall penalty under sections 141 to 141K;
 - (v) a criminal penalty under sections 143 to 148;
 - (c) directly or indirectly remove or diminish the rights of a taxpayer under—
 - (i) the disputes provisions in Part 4A;
 - (ii) the provisions for determinations under Part 5;
 - (iii) binding rulings under Part 5A;
 - (iv) the objection and challenge provisions in Parts 8 and 8A;
 - (v) the provisions relating to remission, relief, and refunds in Part 11;
 - (d) have retrospective application.
- (4) Regulations made under this section must include a date on which the regulations are revoked, and that date must be no later than 3 years after the date on which they are made.
- (5) The Minister may recommend the making of regulations under this section only if satisfied that—
- (a) the regulations—
 - (i) are necessary to achieve the purpose set out in subsection (1); and
 - (ii) are consistent with the purposes of the Inland Revenue Acts; and
 - (iii) are the only legislative option that is practicable in the circumstances; and
 - (b) a consultative process has been undertaken that—
 - (i) includes the distribution of draft regulations and an explanation of the way in which the regulations would meet the requirements of paragraph (a) to persons or organisations that represent taxpayers that it is reasonable to consult with for the purposes of this section; and

- (ii) provides a period of consultation of at least 4 weeks.
- (6) This section and any unexpired regulations made under this section expire and are repealed on 31 December 2021.

Subpart 3—Amendments to other enactment

130 Student Loan Scheme Act 2011 amended

This subpart amends the Student Loan Scheme Act 2011.

131 Section 25 amended (Commissioner may treat certain borrowers as being physically in New Zealand)

After section 25(1)(i), insert:

- (ia) the borrower is undertaking study that meets the requirements of clause 9A of Schedule 1; or
- (ib) the borrower is undertaking an internship that meets the requirements of clause 9B of Schedule 1; or

132 Section 27E amended (Commissioner may remove entity’s listing as charity)

In section 27E(3)(b), replace “applicant” with “entity”.

133 Schedule 1 amended (Conditions to borrower being treated as being physically in New Zealand)

- (1) In schedule 1, replace clause 1 with:

1 Definitions

In this schedule,—

Crown agent means a statutory entity named in Part 1 of Schedule 1 of the Crown Entities Act 2004

ENZ means Education New Zealand established under Part 21 of the Education Act 1989

government department means a department named in Schedule 1 of the State Sector Act 1988

NZQA means the New Zealand Qualifications Authority continued under Part 20 of the Education Act 1989

qualifying government-funded scholarship means a scholarship, in respect of study or an internship,—

- (a) that is partially or fully funded by a government department or a Crown agent; and
- (b) that is assessed by ENZ as being a qualifying scholarship for the purposes of this Act.

- (2) In schedule 1, clause 6(1)(d)(ii), replace “clause 2, 5, 7, 8, or 9” with “clause 2, 5, 7, 8, 9, 9A, or 9B”.
- (3) In schedule 1, after clause 9, insert:

9A Condition to government-funded full-time overseas study application

A borrower who makes an application under section 25(1)(ia) must—

- (a) be undertaking study that—
- (i) the borrower is receiving a qualifying government-funded scholarship in respect of; and
 - (ii) is full-time and undertaken overseas; and
- (b) provide the Commissioner with evidence from ENZ verifying that the borrower is receiving a qualifying government-funded scholarship in respect of the study.

9B Condition to government-funded overseas internship application

A borrower who makes an application under section 25(1)(ib) must—

- (a) be undertaking an internship that—
- (i) the borrower is receiving a qualifying government-funded scholarship in respect of; and
 - (ii) is—
 - (A) full-time; or
 - (B) if undertaken with part-time study, part-time; and
 - (iii) is undertaken overseas; and
- (b) provide the Commissioner with evidence from ENZ verifying that the borrower is receiving a qualifying government-funded scholarship in respect of the internship.

- (4) In schedule 1, clause 11(1), replace “(i), and (j)” with “(i), (ia), (ib), and (j)”.

Schedule

New schedule 2 inserted

s 30

Schedule 2

Application of CRS standard

s 1850

Items modifying CRS standard

- 1 The terms **reporting period, calendar year or other appropriate reporting period, calendar year, and year** mean a 12-month period ending with 31 March, unless the context requires a different interpretation.
- 2 Sections I to VII are replaced by the Sections I to VII included in Annex 5 (Wider Approach to the Common Reporting Standard) of the CRS publication, as amended from time to time, modified by items 3 to 12.
- 3 In Section I, paragraph C, the words “or with respect to each Financial Account that is opened prior to becoming a Reportable Account” are disregarded.
- 4 Section I, paragraph F is disregarded.
- 5 In Section III, subparagraph C(6), the date reference is replaced by 30 June 2017.
- 6 In Section III, paragraph D, the date reference is replaced by the words “30 June 2018, for pre-existing individual accounts that are high value accounts, or 30 June 2019 for pre-existing individual accounts that are lower value accounts”.
- 7 In Section V, paragraph A, the date reference is replaced by 30 June 2017.
- 8 In Section V, paragraph B, the date references are replaced by 30 June 2017.
- 9 In Section V, subparagraph D(1), the first date reference is replaced by 30 June 2017 and the second date reference is replaced by 30 June 2019.
- 10 In Section V, subparagraph D(2), the first date reference is replaced by 30 June 2017 and the second date reference is replaced by 31 March.
- 11 In Section VII, paragraph B, the alternative procedures under the special due diligence rules include the procedure given in paragraph 13 of the Commentary on Section VII.
- 12 Under Section VII, subparagraph C(4), an entity has the option of treating all dollar amounts referred to in the CRS standard as being in New Zealand dollars.
- 13 In Section VIII, subsubparagraph B(1)(c), the term **Non-Reporting Financial Institution** includes a person or entity determined by the Commissioner under

- section 91AAW to be a non-reporting financial institution for the purposes of the CRS applied standard.
- 14 In Section VIII, subparagraph B(8)(b), the date reference is replaced by 1 July 2017.
- 15 In Section VIII, subparagraph B(9)(a), the date reference is replaced by 30 June 2017.
- 16 In Section VIII, subparagraph B(9)(d), the date reference is replaced by 30 June 2018.
- 17 In Section VIII, subparagraph C(9), the definition of the term **Preexisting Account** is the replacement definition given in paragraph 82 of the Commentary on Section VIII, with the date reference in subparagraph (a) of the replacement definition being 30 June 2017.
- 18 In Section VIII, subparagraph C(10), the definition of the term **New Account** is—
New Account means a Financial Account maintained by a Reporting Financial Institution that is not a Pre-existing Account.
- 19 In Section VIII, subparagraph C(14), the date reference is replaced by 30 June 2017.
- 20 In Section VIII, subparagraph C(15), the first date reference is replaced by 30 June 2017 and the second date reference is replaced by 31 March.
- 21 In Section VIII, subparagraph C(17)(f)(ii), the date reference is replaced by 1 July 2017.
- 22 In Section VIII, subparagraph C(17)(g), the term **Excluded Account** includes an account determined by the Commissioner under section 91AAW to be an excluded account for the purposes of the CRS applied standard.
- 23 In Section VIII, subparagraph D(4), the term **Reportable Jurisdiction** means a jurisdiction identified as a reportable jurisdiction by the Governor-General by Order in Council and not subject at the time to a suspension under an Order in Council or a determination of the Commissioner.
- 24 In Section VIII, subparagraph D(5), the term **Participating Jurisdiction** includes New Zealand in addition to jurisdictions determined by the Commissioner to be participating jurisdictions.
- 25 In Section VIII, subparagraph E(4), the definition of the term **Related Entity** is the replacement definition given in paragraph 82 of the Commentary on Section VIII.

Reprints notes

1 *General*

This is a reprint of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5): sections 416, 417