

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill and recommends that it be passed with the amendments shown.

Introduction

The bill seeks to amend various Acts, including the Income Tax Act 2007, the Tax Administration Act 1994, and the KiwiSaver Act 2006. The resulting legislation would confirm the annual rates of income tax for the 2013/14 tax year, and effect the following principal changes:

- Replacing the existing tax rules for New Zealand residents with interests in foreign superannuation schemes. The new rules aim to be simpler and fairer, and to make it easier for people who have not paid tax on their foreign superannuation in the past to comply.

- Changing the tax rules relating to the mining of specified minerals to make them less concessionary and more consistent with those for taxpayers generally.
- Clarifying the rules for Working for Families tax credits.
- Making a number of remedial technical changes to the rules for general and life insurance businesses.
- Addressing a mismatch in the tax rules relating to imputation credits and Australian dividends, to prevent the over-crediting of imputation credits in excess of the tax payable under foreign investment fund rules.
- Refining the rules for the deductions available to holders of bad debt.
- Allowing a company's minimum financial reporting requirements to be set by Order in Council, if it would not otherwise be required to prepare financial statements following the repeal of the Financial Reporting Act 1993.
- Making it clear that holders of interest-free or low-interest loans cannot claim deductions for interest they have not incurred.
- Granting donee status to three charitable organisations.

Supplementary Order Paper 257

The Minister of Revenue released Supplementary Order Paper 257 to the bill on 25 June 2013. The SOP addresses tax issues arising from the Canterbury earthquakes by proposing amendments to the Income Tax Act 2007 including

- extending the time limit for tax measures introduced to address Canterbury earthquake-specific issues
- extending the availability of depreciation rollover relief.

The Minister wrote to the committee on 25 June 2013 inviting us to include the SOP in our consideration of the bill. We have done so, and are recommending that the amendments proposed in the SOP be incorporated into the bill, with a few adjustments.

Proposed amendments

This commentary discusses the more significant amendments we recommend to the bill. It does not discuss minor or technical amend-

ments. For example, our proposed changes to clauses 26 and 29, relating to deductions for bad debt, and to clauses 44 to 52, relating to remedial changes to the taxation of insurance businesses, are largely technical refinements to ensure the rules are clear and work as intended.

Commencement

Clause 2 provides for a number of the bill's provisions to apply retrospectively; we are also recommending the retrospective application of several amendments. We are satisfied that the justification for backdating these provisions is sound, and that taxpayers would not be unreasonably affected.

Taxation of foreign superannuation

The bill proposes a much simpler regime for taxing New Zealand residents who receive foreign superannuation. People who migrate to New Zealand, or return after a period overseas, often have superannuation interests in their previous country of residence. The bill would make lump-sum withdrawals from such schemes taxable on receipt, allowing taxpayers to choose one of two calculation methods. Because the current rules are complex, many people are unaware of the tax treatment of these interests in New Zealand, which has contributed to high rates of non-compliance. The bill proposes a simple way for people to remedy their previous position and start afresh under the new regime; a concessionary approach encourages them to do so.

Clause 8 contains the main provisions on foreign superannuation, but numerous other clauses are also relevant. We recommend several amendments to ensure the bill works as intended and avoids unintended consequences, and for clarification and consistency.

Pensions from trusts and companies

Clause 6 would insert new section CD 36B into the Income Tax Act 2007, relating to the treatment of distributions from foreign superannuation schemes that are trusts or companies. We recommend amending this clause, with a related amendment in clause 66(1), to include pensions and make it clear that they would be subject to the

general tax rules applying to pensions, rather than treated as dividends or taxed under the trust rules.

Social security schemes

We are recommending several amendments in clause 8 and elsewhere to make it clear that the definition of a foreign superannuation scheme does not include overseas social security schemes. Such schemes make payments similar to New Zealand Superannuation, and we consider it appropriate that they be treated under the normal tax rules that apply to New Zealand pensions, rather than under the foreign investment fund (FIF) rules or under the regime proposed in the bill. This would be consistent with the original intention of the 1976 and 1994 Income Tax Acts, and would correct some ambiguity resulting from the rewriting of the Act in 2004. We recommend making this change retrospective to 1 April 2005, when the rewritten Act came into effect.

The amendments we recommend are to insert new section CF 3(1A)(a) in clause 8, clause 103(51B), and clause 116B amending the Income Tax Act 2004.

Definition of foreign superannuation interest

We recommend amending clause 8 to specify that the regime proposed in the bill would be available only if a person first acquired the rights in a foreign superannuation scheme while they were non-resident. This would avoid a situation in which a person who intended to retire overseas could invest in a foreign superannuation fund while resident in New Zealand, and withdraw the funds once they moved overseas, paying no tax on the fund's earnings while they were resident in New Zealand, when ordinarily they would be subject to the foreign investment fund rules. This would be inconsistent with the policy intent of New Zealand's tax rules, and in particular the FIF rules.

Our recommended change would be effected by inserting in clause 8 new sections CF 3(1A)(b)(ii) and CF 3(3)(b), and amending the definition of "FIF superannuation interest" in clause 103(9).

Eligibility for exemption period

The provisions in clause 8 sections CF 3(3) and CF 3(4) are designed to simplify the current rules that allow new migrants who qualify as transitional residents a four-year period in which withdrawals from foreign superannuation schemes are not counted as income. The bill's provisions would extend the four-year exemption to any taxpayer who acquired an interest in a foreign superannuation scheme while living overseas. This is designed to apply the exemption more fairly, as some people who otherwise qualify as transitional residents do not qualify for the existing exemption, for example if they receive Working for Families tax credits.

We recommend amending these provisions to ensure that the underlying policy intent is achieved; that is, that the same exemption period be available to people whether or not they qualify as transitional residents.

We also recommend consequential amendments in clause 18, new section CW 28B, to ensure that amounts received in this period would not be counted as taxable income.

Assessable period

We consider that some amendments are needed to ensure the legislation works as intended if a person has more than one period of residence for a given foreign superannuation interest; that is, when they have moved back and forth between New Zealand and an overseas country. As introduced, the bill would calculate the assessable period on the basis of the latest period of residence only.

We recommend amending clause 8, section CF 3(5), and inserting section CF 3(5B), to reflect the policy intent that all periods of residence in New Zealand during which a person held a foreign superannuation interest should be aggregated in calculating the assessable period.

Exception for transfers on death or relationship cessation

We recommend amending the provisions in clause 8 relating to the transfer of an interest in a foreign superannuation scheme to another person following a relationship split, or upon death. Under existing law such a transfer is a taxable event; the bill as introduced would retain this treatment with one exception: where the interest was trans-

ferred from one New Zealand resident to another upon death, rollover relief would be provided so the interest was not taxable until the recipient ultimately made a withdrawal.

We consider that the exception proposed would be inconsistent with other parts of the Income Tax Act that deal with property transfers in the event of death or a relationship break-up. The changes we recommend would broadly align the treatment of foreign superannuation interests with other relief provisions in the Act, and should result in less confusion.

Under the amendments we propose, rollover relief would be provided where the transfer occurred as a result of a relationship break-up, or upon the death of the transferor, but only where the transferee was a New Zealand resident and the surviving or former spouse or partner. The amendments we recommend in clause 8 entail amending sections CF 3(1)(d), CF 3(6)(b)(v), and CF 3(18)(d), and inserting sections CF 3(1A)(b)(ii), and CF 3(1B).

Formula method

Clause 8, new sections CF 3(6) to CF 3(15), would establish two alternative methods for calculating the tax on a lump-sum withdrawal from a foreign superannuation scheme. The default would be the schedule method, under which the percentage of the sum withdrawn that would be taxed would depend on the number of years a person had been a New Zealand resident. People would have the option of choosing to calculate their tax using the more complicated formula method; this would tax the actual gains made by the scheme while they were resident in New Zealand, plus an interest charge to recognise that payment of the tax had been deferred until money was withdrawn from the scheme. In calculating the amount of tax deferred, the formula method, as introduced, would assume that the person was on the highest marginal tax rate.

We considered whether it would be fairer to base this calculation on a person's average marginal tax rate, but concluded that this would be overly complex. Instead, we recommend amending the formula to use the top portfolio investment entity (PIE) tax rate, currently 28 percent, rather than the top personal tax rate. We believe this would reflect better the rate that would have been paid had the funds been

invested in a New Zealand superannuation fund. We recommend amending clause 8, new section CF 3(15)(b), accordingly.

Relationship to the rest of the Act

We recommend amending clause 8 by inserting new section CF 3(19) to avoid the possibility of double taxation by making it clear that a person who was subject to the proposed new rules would not also remain liable for their unpaid FIF tax. This is because the proposed rules for taxing lump sums would account for any tax that should have been paid, whether or not it was. However, where a taxpayer had acquired the interest in the foreign superannuation scheme while already a New Zealand resident, they would still be subject to the FIF rules and remain liable for unpaid FIF tax.

Past withdrawals

Clause 25 of the bill, inserting new section CZ 21B, would allow people who had made lump-sum withdrawals from foreign superannuation schemes prior to 1 April 2014 but not complied with their tax obligations two options for getting their tax affairs in order: they could choose between applying the law as it was at the time of each withdrawal, or paying tax on 15 percent of the amount withdrawn. The 15 percent option is intended to be a low-cost way for non-compliant taxpayers to square up their outstanding obligations.

We recommend some amendments to clause 25 to ensure that the intention is clear and that the legislation would operate as intended. Under the changes we recommend, taxpayers who chose to use the 15 percent option in subsequent income years would have their 2014/15 income year reassessed so as to apply that concessionary tax rate.

“Grandparenting” under the FIF rules

To ensure that taxpayers who have already complied with the FIF rules do not face higher compliance costs, the bill would permit them to continue using the FIF rules rather than requiring them to comply with the new regime. However, the bill as introduced does not make it clear whether this would also apply where a taxpayer had earned no income, or incurred a loss, from the foreign investment fund, in which case no evidence of compliance would be recorded in their tax return.

We recommend amending the definition of FIF superannuation interest in clause 103(9) to make it clear that a taxpayer who had complied with the FIF rules in relation to a foreign superannuation interest, but had earned no income from the foreign investment fund, or incurred a loss, would remain free to use the FIF rules.

Withdrawals from KiwiSaver

Clause 115 of the bill proposes changes to the KiwiSaver Act 2006 to allow taxpayers who transfer from a foreign scheme to a KiwiSaver scheme to withdraw sufficient funds from the KiwiSaver scheme to pay the tax that arises on transfer. We propose a few amendments to these provisions, as discussed below.

Student loan obligations

We note that a student loan repayment obligation may also arise where a portion of a foreign superannuation transfer is counted as taxable income. We consider it appropriate to allow a taxpayer to withdraw funds from KiwiSaver to cover their repayment obligation arising from such a transfer, as well as the tax obligation. We recommend amending clause 115 accordingly, to amend clause 14C(1)(b) in Schedule 1 of the KiwiSaver Act.

Time limit for withdrawals

The bill's provisions relating to withdrawals from KiwiSaver would require an application for a withdrawal to be made within two years of a transfer from a foreign superannuation scheme. We consider it more appropriate that the two-year period commence when the tax liability arises; that is, after an income tax return has been submitted and the transfer has been assessed as income. We recommend amending clause 115 accordingly, to amend the requirement in clause 14C(3)(a) in Schedule 1 of the Act.

Payment to Inland Revenue

To prevent a person withdrawing funds under this provision but then failing to pay their tax liability, we recommend amending clause 115 to insert clause 14C(4) in Schedule 1 of the KiwiSaver Act, to require the KiwiSaver provider to make the payment direct to the Inland Revenue Department if their systems allow them to do so. Whether or

not the payment was made direct to Inland Revenue, the KiwiSaver provider would be required to notify the Commissioner of Inland Revenue that such a withdrawal had been made.

UK rules for transfers to foreign schemes

We are aware of concern about the UK's "QROPS"¹ rules for transfers of superannuation savings. While transfers to foreign locked-in schemes such as KiwiSaver are allowed without incurring tax, any withdrawal from such a scheme within five years of becoming non-resident in the UK could trigger a surcharge of up to 55 percent.

We are concerned about the complexity of the rules and the potential for taxpayers to incur a significant tax liability. We consider it important that people considering making a transfer are made aware of their potential tax obligations, and of how to time the transfer so as to minimise any penalties. We understand that most transfers are made using the services of an agent, and strongly recommend that Inland Revenue undertake a campaign to educate agents and their clients about their options and obligations under the proposed regime.

Mineral mining

Clauses 13 and 35, replacing subparts CU and DU of the Income Tax Act 2007, propose a new regime for the taxation of mineral mining. It would be less concessionary than current law, and more in line with the way other businesses are taxed. There would still be some specific provisions to take into account particular features of the mining industry. We agree with the policy intent of tightening an overly concessionary treatment of mineral miners; our consideration focused on whether the proposed regime would lean too far the other way, penalising miners and jeopardising their international competitiveness. The amendments we propose below seek to strike an appropriate balance.

Treatment of mining land

The bill treats land acquired for the purposes of mining as revenue account property, so the cost of the land would be deductible when the land was sold, and the proceeds from its sale would be taxable.

¹ Qualifying Recognised Overseas Pension Scheme.

We recommend amending clause 13, section CU 2(1), to make it clear that land acquired away from the permit area, for example for administrative purposes, would not be counted as mining land; the mining land rules would apply only to land that included, or was intended to include, all or part of a permit area or was adjacent to it. We recommend that clause 35, section DU 3(2), be similarly amended.

We also believe it should be made clear that the specific land rules in the bill would apply in preference to general revenue account property rules. To do so, we recommend inserting clause 27B, amending section DB 23.

Prospecting and exploration expenditure

Clauses 13 and 35 would make expenditure on exploration fully deductible, but with provision for deductions to be clawed back if an asset created during the exploration phase, such as a road, was later used in a mine's development or operation. We consider this a reasonable approach. It recognises that mining requires hefty investment in the exploration phase, remaining more generous than the treatment of some other businesses, which are not always allowed to deduct feasibility expenditure.

We note, however, that the bill as introduced leaves open-ended the period for which a miner is required to keep records of expenditure that might later be clawed back. We consider that this could be onerous and unrealistic, and recommend amending clause 13 by inserting new subsection CU 4(1)(cb) to require records to be kept for the same period required of other taxpayers under the Tax Administration Act 1994, being seven years from the end of the income year to which they relate.

We also recommend amending clause 13, section CU 4(1)(c), so that the claw-back rule would apply only to expenditure incurred after the new rules took effect. This would avoid their retrospective application, which was not intended.

Development and operational expenditure

We recommend changes to the definition of development expenditure in the bill as introduced (clause 35, section DU 12); in some respects we consider it unduly broad, and in others incomplete. The definition is intended to cover expenditure on developing a mine to the point

where commercial extraction can begin, or subsequent expenditure that is capital in nature and therefore appropriate to deduct over the life of the mine. The definition as introduced, however, could also capture expenditure related to the day-to-day operation of a mine after production had commenced. We propose adding a new definition of “operational expenditure” to cover such expenditure, and excluding it from the definition of development expenditure. We recommend amending clause 35 by inserting sections DU 12(3)(ab) and DU 12(4) accordingly.

To accommodate the fact that mining can take place offshore, we recommend amending clause 35, section DU 12(2)(c)(i), by expanding the definition of development expenditure to include vessels.

Rehabilitation expenditure

As introduced, the bill would allow a deduction for rehabilitation expenditure when it was paid; we note that this differs from the general rule, which is to allow a deduction when expenditure is “incurred”, that is, when a legal liability to pay has been taken on. In the interests of avoiding unnecessary compliance costs, we recommend amending clause 35, sections DU 2(2) and DU 2(4), so that rehabilitation expenditure would be deductible when it was incurred.

We also recommend amending clause 35, section DU 13(a), by broadening the definition of “rehabilitation expenditure” to accommodate other legislation that may require rehabilitation work, such as the Conservation Act 1987 and the Historic Places Act 1993.

Depreciation rules

We recommend changing the approach proposed in the bill for the calculation of depreciation on mineral mining.

As introduced, the bill would require the depreciation of a mining asset to be spread over the assumed life of the mine. While it is normal practice for depreciation to be based on the estimated useful life of the income-producing asset, we accept the view that the methods provided for in the bill as introduced would not adequately reflect the nature of the industry, where income tends to be very uneven. After considering possible alternatives, we recommend amending the bill to allow depreciation to be calculated using a unit of production method, based on proven and probable reserves, provided the miner

produces accounts using international financial reporting standards (IFRS), or otherwise keeps records that would allow this method to be verified. To avoid unnecessary compliance costs for smaller operators, we recommend retaining the methods provided for in the bill as introduced as an option for those who do not keep IFRS accounts. To effect these changes, we recommend amending clause 35 by inserting sections DU 5B and DU 5C and deleting sections DU 6 to DU 8, and inserting clause 37G, sections EJ 20B to EJ 20E. We note in particular that “proven and probable reserves” would be defined by section EJ 20E(4)(d) in relation to established classification codes recognised under the Crown Minerals (Minerals other than Petroleum) Regulations 2007.

We have also considered whether, for depreciation purposes, expenditure should be related to a permit area, as in the bill as introduced, or to a mine, since a miner may have several mines within a permit area, with different life-spans. A miner could also have a single mine covering several permit areas. The amendments we recommend above, particularly the insertion of clause 37G, sections EJ 20B(6) and EJ 20E(6), would allow miners to use the unit of measure best suited to their actual operations, while limiting the scope for inappropriate allocation of expenses to selected projects with the shortest life. This would mean that the “mine” option would be available only to miners who produce IFRS accounts, if the accounts allowed expenses to be allocated to individual mines.

Tax credits for mineral miners

Clause 88, inserting new subpart LU, would create a refundable credit mechanism to allow for the fact that a miner will generally incur rehabilitation expenditure at the end of a mine’s life, when it generates no income to offset the expenditure. We note, however, the potential for “black-hole” expenditure if the depreciation deductions in the final year of a mine’s operation exceeded income derived from the mine in that year. To avoid this unintended result, while ensuring that the credit was not available prematurely (for example, if a mine was mothballed, rather than closed permanently), we recommend amending clause 88, section LU 1(1), to provide for the refundable credit to be tied to the date on which the miner relinquished rights under the relevant permit.

We are also recommending changes in section LU 1(4) to clarify how the credit would be calculated, particularly for trustees and individuals.

Loss continuity rules

The bill would retain the existing concessionary departure from normal shareholder continuity rules, which do not allow deductions for losses to be carried over when a company's ownership structure changes significantly. The retention of this concession is designed to acknowledge that changes in a company's structure are a common feature of the mineral mining industry between the exploration and development stages, when large amounts of new capital must be raised. We consider this concession appropriate, in combination with existing rules which prevent a mineral mining company from forming a tax group except with other mineral mining companies, thus precluding inappropriate trading of losses between companies. We will, however, expect Inland Revenue to monitor compliance carefully.

We recommend amending clause 80(1B) to make it clear what expenditure the bill's provisions regarding shareholder continuity would apply to. While the existing Act divides mining expenditure into just two types, exploration expenditure and development expenditure, clause 35 of the bill, if enacted as we recommend, would subdivide the types of spending into prospecting, exploration, development, operating, and rehabilitation expenditure. Our recommended amendment would make it clear that all such types of mining expenditure apart from rehabilitation expenditure would survive a breach of shareholder continuity, not just expenditure on exploration or development. Rehabilitation expenditure is expected to be eligible for a tax credit, rather than being carried forward, and so is not included.

Canterbury earthquake tax measures

Tax measures introduced to address issues arising from the Canterbury earthquakes are due to expire at the end of 2015/16. As it has become clear that rebuilding will take longer than initially estimated, SOP 257 proposes to extend the duration of the measures by three

years. We recommend that the SOP be incorporated into the bill with some amendments, which we discuss below.

We note that a further extension of the expiry dates for relief measures beyond 2018/19 is not expected to be needed, but the possibility cannot be ruled out given the uncertainties of Canterbury's rebuilding. We urge Inland Revenue to announce any further review well in advance of the expiry dates to give taxpayers the certainty they need.

Deductions for interruption expenditure

We recommend inserting clause 37BA to replace section DZ 20 of the Income Tax Act relating to deductions for expenditure incurred while income-earning activity was interrupted by the Canterbury earthquakes. This amendment would correct an inadvertent omission from the SOP, extending the life of this relief provision to the end of 2018/19.

Application for building consent

While the provisions in the SOP would move the time limit for the tax relief measures to the end of 2018/19, they would still require a person to have applied for a building consent by the end of 2015/16 to qualify. In view of continuing uncertainty about planning and rebuilding in Canterbury, we consider this requirement unnecessarily onerous. We recommend removing the requirement for taxpayers to have applied for building consent by the end of the 2015/16 income year.

To effect this change, we recommend amending clauses 52B and 52C of the SOP as introduced by removing sections EZ 23B(7) and (7B), and amending sections EZ 23BB(9) and (10).

Transition to new rules for depreciation rollover relief

Clause 52B, as proposed on the SOP, would amend section EZ 23B of the Income Tax Act 2007, which provides tax relief regarding a person's income from proceeds of insurance on earthquake-damaged depreciable property. Clause 52C would extend this relief, to recognise the fact that many owners of buildings damaged in the earthquakes will be investing in larger replacement buildings as members of groups of investors. To access relief under new section EZ 23BB, a person would generally be required to meet the same criteria ap-

plying in existing section EZ 23B, but would also need to have an interest in a joint investment company that will acquire replacement property.

We recommend amending clauses 52B and 52C to provide a transition between the two relief provisions, so that a taxpayer who had previously relied on existing section EZ 23B could claim relief under new section EZ 23BB. The new section would take retrospective effect from 4 September 2010, the date of the first Canterbury earthquake. The changes we recommend entail inserting clause 52B(8), section EZ 23B(11)B, and amending clause 52C, sections EZ 23BB(1)(a)(iv) and EZ 23BB(11)(c).

We are also recommending some amendments in clause 52C to clarify the meanings of several terms in the context of new section EZ 23BB.

Working for Families tax credit rules

The bill proposes various changes to the provisions for Working for Families tax credits to ensure they operate as intended. We have considered ways of simplifying the rules to reduce the difficulty and cost of compliance. We propose some relatively minor changes that would help by reducing compliance costs, and would mean only a small increase in Government spending.

We recommend amendments in clauses 91 and 92, sections MB 4 and MB 7, and the insertion of new clauses 92B and 92C, amending sections MB 8 and MB 9. These sections relate to close companies, trusts, and companies owned by trusts; the changes are designed to rationalise the provisions by aligning the wording and formulae. We understand that Inland Revenue also intends to review the IR215 form and supporting information to try to improve guidance about the income information required from families.

Appendix

Committee process

The Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill was referred to the committee on 12 June 2013. The closing date for submissions was 24 July 2013. Supplementary Order Paper 257 was released by the Minister of Revenue on 25 June 2013 and we called for submissions with a closing date of 7 August 2013. We received and considered 24 submissions from interested groups and individuals. We heard nine submissions.

We received advice from the Inland Revenue Department, the Treasury, and our specialist tax advisor, Therese Turner.

Committee membership

Paul Goldsmith (Chairperson)

Maggie Barry

David Bennett

Dr David Clark

John Hayes

Hon Shane Jones

Dr Russel Norman

Hon David Parker

Rt Hon Winston Peters

Jami-Lee Ross

Hon Kate Wilkinson

Julie Anne Genter replaced Dr Russel Norman for this item of business.

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Superannuation, and Remedial Matters) Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Todd McClay

**Taxation (Annual Rates, Foreign
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Government Bill

Contents

		Page
1	Title	10
2	Commencement	10
Part 1		
Annual rates of income tax		
3	Annual rates of income tax for 2013–14 tax year	11
Part 2		
Amendments to Income Tax Act 2007		
4	Income Tax Act 2007	12
5	Section CB 36 amended (Disposal of emissions units)	12
6	New section CD 36B inserted (Foreign superannuation withdrawals and pensions from foreign superannuation scheme)	12
	CD 36B Foreign superannuation withdrawals and pensions from foreign superannuation scheme	12
7	Subpart CF heading amended (Income from living allowances, compensation, and government grants)	12
8	New section CF 3 inserted (Withdrawals from foreign superannuation scheme)	12
	CF 3 Withdrawals from foreign superannuation scheme	12
9	Section CQ 5 amended (When FIF income arises)	22

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

9B	Section CR 4 amended (Income for general insurance outstanding claims reserve)	23
10	Section CT 1 amended (Disposal of exploratory material or petroleum mining asset)	23
11	Section CT 4 amended (Partnership interests and disposal of part of asset)	23
12	Section CT 5 amended (Petroleum mining operations outside New Zealand)	23
13	Subpart CU replaced (Income from mineral mining)	24
	Subpart CU—Income from mineral mining	
	CU 1 Mineral miner’s income	24
	CU 2 Treatment of mining land	24
	CU 3 Disposal of mineral mining assets	24
	CU 4 Recovery of certain expenditure	25
	CU 5 Partnership interests and disposal of part of asset	26
	<i>Definitions</i>	
	CU 6 Meaning of mineral miner	26
	CU 7 Some definitions	27
	CU 8 Meaning of listed industrial mineral	28
	CU 9 Some definitions	29
14	Section CV 2 amended (Consolidated groups: income of company in group)	30
15	New section CV 19 inserted (Additional income for certain imputation credits)	30
	CV 19 Additional income for certain imputation credits	30
16	Section CW 12 amended (Proceeds of share disposal by qualifying foreign equity investor)	31
17	Heading before section CW 28 amended (Income from living allowances, compensation, and government grants)	31
18	New sections CW 28B and CW 28C inserted	31
	CW 28B Foreign superannuation withdrawal in initial period of residency	31
	CW 28C Foreign superannuation withdrawal exceeding given amount	31
18B	New section CW 55BAB inserted (Rebate of fees paid by FIF)	32
	CW 55BAB Rebate of fees paid by FIF	32
19	Section CX 43 replaced (Farm-out arrangements for petroleum mining)	32
	CX 43 Farm-out arrangements for mining operations	33

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

20	Heading and section CX 44 repealed (Disposal of mining shares)	33
21	Section CX 45 repealed (Disposal of mining shares acquired with reinvestment profit)	33
22	Section CX 46 repealed (Repayment of loans made from reinvestment profit)	33
23	Section CZ 2 repealed (Mining company's 1970–71 tax year)	33
24	Section CZ 4 repealed (Mineral mining: company making loan before 1 April 1979)	33
25	New section CZ 21B inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)	33
	CZ 21B Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014	34
25B	Section CZ 25 amended (Land and buildings as revenue account property affected by Canterbury earthquakes and replaced—insurance or compensation, Government purchase)	35
25C	Section CZ 26 replaced (Land and buildings affected by Canterbury earthquakes—sections CB 9 to CB 12 overridden for Government purchases)	37
	CZ 26 Land and buildings affected by Canterbury earthquakes—sections CB 9 to CB 12 and CB 14 overridden for Crown purchases	37
26	New section CZ 27 inserted (Prior bad debt deductions clawback)	37
	CZ 27 Prior bad debt deductions clawback	37
27	New section CZ 28 inserted (Transitional provision for mineral mining: previously appropriated mining expenditure)	38
	CZ 28 Transitional provision for mineral mining: previously appropriated mining expenditure	38
27B	Section DB 23 amended (Cost of revenue account property)	39
28	Section DB 30 amended (Cost of non-specified mineral)	39
29	Section DB 31 amended (Bad debts)	39
30	Section DN 6 amended (When FIF loss arises)	42
31	Section DP 11 amended (Cost of timber)	42
32	Section DR 3 amended (Life reinsurance outside New Zealand)	42

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

33	Section DR 4 amended (Life insurers' claims reserves)	42
34	Section DT 17 amended (Attribution of expenditure)	43
35	Subpart DU replaced (Mineral mining expenditure)	43
	Subpart DU—Mineral mining expenditure	
	DU 1 Mining expenditure: prospecting and exploration expenditure	43
	DU 2 Mining expenditure: rehabilitation expenditure	43
	DU 3 Acquisition of land for mining operations	44
	DU 4 Acquisition of mineral mining assets	45
	DU 5 Farm-out arrangements	46
	DU 5B Deduction for certain mining expenditure spread over assumed life of mine	46
	DU 5C Deduction for certain mining expenditure spread on basis of units of production	47
	<i>Classes of mining expenditure</i>	
	DU 9 Classes of mineral mining expenditure	51
	DU 10 Some definitions	51
	DU 11 Meaning of mining exploration expenditure	52
	DU 12 Meaning of mining development expenditure	53
	DU 13 Meaning of mining rehabilitation expenditure	54
36	Section DW 4 amended (Deduction for general insurance outstanding claims reserve)	55
37	Section DZ 12 repealed (Mineral mining: 1954–2005)	57
37BA	Section DZ 20 replaced (Expenditure incurred while income-earning activity interrupted by Canterbury earthquake)	57
	DZ 20 Expenditure incurred while income-earning activity interrupted by Canterbury earthquake)	57
37B	Section EA 2 amended (Other revenue account property)	58
37C	Section EA 3 amended (Prepayments)	58
37D	Section ED 3 amended (Part-year tax calculations for transfers: general insurance OCR)	58
37E	Section EE 1 amended (What this subpart does)	59
37F	Section EE 52 amended (Amount of depreciation recovery income when compensation received)	59
37G	New heading and sections EJ 20B to EJ 20E inserted	59
	<i>Mineral mining</i>	
	EJ 20B Certain mining expenditure spread over assumed life of mine	60
	EJ 20C Length of spreading period	61

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

	EJ 20D Measurement of assumed life of mine and application to rate	62
	EJ 20E Certain mining expenditure spread on basis of units of production	63
38	Section EW 15D amended (IFRS financial reporting method)	65
39	Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)	66
40	Section EX 29 amended (Attributing interests in FIFs)	66
41	Section EX 33 repealed (Exemption for Australian regulated superannuation savings)	66
42	Section EX 42 repealed (New resident's accrued superannuation entitlement exemption)	66
43	New section EX 42B inserted (Interests in foreign superannuation scheme other than FIF superannuation interests)	66
	EX 42B Interests in foreign superannuation scheme other than FIF superannuation interests	66
44	Section EY 5 amended (Part-year tax calculations)	67
45	Section EY 15 amended (Policyholder base income: non-participation policies)	68
45B	Section EY 16 amended (Policyholder base allowable deductions: non-participation policies)	69
46	Section EY 17 amended (Policyholder base income: profit participation policies)	70
47	Section EY 19 amended (Shareholder base income: non-participation policies)	71
48	Section EY 20 amended (Shareholder base allowable deductions: non-participation policies)	71
49	Section EY 21 amended (Shareholder base income: profit participation policies)	72
52B	Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)	74
52C	New section EZ 23BB inserted (Interest in property acquired after depreciable property affected by Canterbury earthquakes)	77
	EZ 23BB Interest in property acquired after depreciable property affected by Canterbury earthquakes	78
52D	Sections EZ 23C to EZ 23G repealed	83
55	New heading and section EZ 69 inserted (IFRS financial reporting method: interest-free and low-interest loans)	84

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

	<i>IFRS financial reporting method</i>	
	EZ 69 IFRS financial reporting method: interest-free and low-interest loans	84
55B	New heading and sections EZ 70 to EZ 74 inserted	85
	<i>Damage from Canterbury earthquakes</i>	
	EZ 70 Insurance for Canterbury earthquake damage of property: deemed sale and purchase	85
	EZ 71 Insurance for Canterbury earthquake damage of property: limit on depreciation recovery income	86
	EZ 72 Item treated as available for use if access restricted due to Canterbury earthquake	87
	EZ 73 Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions	87
	EZ 74 Insurance for repairs of Canterbury earthquake damage: optional timing rule for income, deductions	89
56	Section FB 20 repealed (Mining assets)	90
57	Section FB 21 amended (Depreciable property)	90
57B	Section FE 41 amended (Treatment of associated persons' interests)	90
58	Section FM 31 amended (Eligibility rules)	91
59	Section FN 4 amended (Eligibility rules)	91
59B	Section FZ 7 replaced (Valuation of group assets: insurance proceeds from Canterbury earthquake)	91
	FZ 7 Valuation of group assets: insurance proceeds from Canterbury earthquake	91
60	Heading before section GB 20 replaced (Arrangements involving petroleum mining)	93
61	Section GB 20 replaced (Arrangements involving petroleum mining)	93
	GB 20 Arrangements involving petroleum and mineral mining	93
62	Section GB 32 amended (Benefits provided to employee's associates)	96
63	Section GB 44 amended (Arrangements involving tax credits for families)	96
64	Section GZ 1 amended (Limitation on section GB 20: petroleum mining arrangements)	96
65	Section HA 4 amended (Conditions applying)	96
66	Section HC 15 amended (Taxable distributions from non-complying and foreign trusts)	96

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

67	Section HC 27 amended (Who is a settlor?)	96
68	Section HM 8 amended (Residence in New Zealand)	97
69	Section HM 11 amended (Investment types)	97
70	Section HM 12 amended (Income types)	97
71	Section HM 13 amended (Maximum shareholdings in investments)	97
71B	Section HM 36 amended (Calculating amounts attributed to investors)	97
72	Section HM 50 amended (Attributing credits to investors)	97
73	Section HM 55FB amended (Notified foreign investors and tax credits for supplementary dividends)	98
74	Section HM 72 amended (When elections take effect)	98
75	Section HR 8 amended (Transitional residents)	98
76	Section IA 7 amended (Restrictions relating to ring-fenced tax losses)	98
77	Section ID 1 amended (Treatment of tax losses by consolidated groups)	98
78	Heading to subpart IS replaced (Mining companies' and petroleum miners' tax losses)	98
79	Section IS 1 amended (General treatment of mining companies' net losses)	99
80	Section IS 2 amended (Treatment of net losses resulting from certain expenditure)	99
81	Section IS 3 repealed (Holding companies' tax losses)	100
82	Section IS 4 repealed (Adjustments in certain circumstances)	100
83	Section IS 6 amended (When company stops being mining company)	100
85	Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)	100
85B	Section LD 3 amended (Meaning of charitable or other public benefit gift)	100
86	New section LE 8B inserted (Dividends from certain FIF interests)	101
	LE 8B Dividends from certain FIF interests	101
87	Subpart LR repealed (Tax credits for policyholder income)	101
88	New subpart LU inserted (Tax credits for mineral miners)	101
	Subpart LU—Tax credits for mineral miners	
	LU 1 Tax credits for mineral miners	102
89	Section MA 8 amended (Some definitions for family scheme)	105

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

90	Section MB 1 amended (Adjustments for calculation of family scheme income)	105
91	Section MB 4 replaced (Family scheme income of major shareholders in close companies)	106
	MB 4 Family scheme income of major shareholders in close companies	107
92	Section MB 7 amended (Family scheme income of settlor of trust)	109
92B	Section MB 8 amended (Family scheme income from fringe benefits: controlling shareholders)	110
92C	Section MB 9 amended (Family scheme income from deposits in main income equalisation accounts)	110
93	Section MC 6 amended (When person does not qualify)	111
94	Section MD 1 amended (Abating WFF tax credit)	111
95	Section MD 2 amended (Calculating net contributions to credits)	111
96	Section MD 12 amended (Calculation of parental tax credit)	111
97	Section MD 13 amended (Calculation of family credit abatement)	111
98	Section MD 16 amended (Calculation of parental tax credit abatement)	111
99	Section OB 1 amended (General rules for companies with imputation credit accounts)	112
99B	Section OB 2 amended (Australian companies with imputation credit accounts)	113
100	Section OB 47 amended (Debit for policyholder base imputation credits)	113
101	Section OP 44 amended (Consolidated ICA debit for policyholder base imputation credits)	114
102	Section RD 5 amended (Salary or wages)	114
103	Section YA 1 amended (Definitions)	114
104	Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits)	122
105	Schedule 32 amended (Recipients of charitable or other public benefit gifts)	122
106	New schedule 33 inserted (Default fractions of foreign superannuation withdrawals)	122
107	Removal of redundant headings and readers' aids	122

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

Part 3

Amendments to other Acts

Tax Administration Act 1994

108	Tax Administration Act 1994	123
109	Section 17 amended (Information to be furnished on request of Commissioner)	123
110	New sections 21B and 21C inserted	123
	21C Preparing financial statements: Orders in Council	123
	21B Preparing financial statements	124
111	Section 22 amended (Keeping of business and other records)	124
112	Section 24O amended (Certain information required from agricultural, horticultural, or viticultural employers)	124
112B	Section 83 amended (Disclosure of information for purposes of entitlement card)	125
112C	Section 84 amended (Disclosure of information for family support double payment identification)	125
114	Section 108 amended (Time bar for amendment of income tax assessment)	125

KiwiSaver Act 2006

115	Schedule 1 amended (KiwiSaver scheme rules)	125
	14C Withdrawal to meet tax liability on foreign superannuation withdrawal	125

Income Tax Act 2004

116	New section CF 3 inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)	127
	CF 3 Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014	128
116B	Definitions	129

Income Tax Act 1994

117	New section CC 4 inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)	129
	CC 4 Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014	129

	<i>Health Entitlement Cards Regulations 1993</i>	
117B	Regulation 2 amended (Interpretation)	130
118	Regulation 8 amended (Eligibility for community services cards)	130
	Schedule 1	131
	New schedule 33 inserted	
	Schedule 2	133
	Removal of redundant headings and readers' aids	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act **2013**.
- 2 Commencement** 5
- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) **Section 114** comes into force on 24 October 2001.
- (2B) Section 116B comes into force on 1 April 2005.
- (3) **Sections 14, 16, 29(1), (2), (3), (5), and (9), 31, 57B, 59(1A) and (3), 65, 99, 99B, 102(2), 103(4), (13), (39), and (52), 112, and ~~113~~112C, and 117B(a)** come into force on 1 April 2008. 10
- (4) **Section 5** comes into force on 1 January 2009.
- (4B) Section 18B comes into force on 1 April 2009. 15
- ~~(5) Section 103(8) and (53)~~ comes into force on 30 June 2009.
- (5B) Section 71B comes into force on 1 April 2010.
- (6) **Sections 33(1) and (2) to (4), 45(1), (2), and (4), 45B, 46, 47(1) to (3) and (5), 48(1) and (3), 49, 50, 51, 52, 53, 54, 100, 101, and 103(44), (45), (46), and (54)100, and 101** come into force on 1 July 2010. 20
- (6B) Sections 25B, 25C(1), 37E, 52B, 52C, 59B, 103(5B), (50B), and (50C) come into force on 4 September 2010.
- (7) **Section 104** comes into force on 1 April 2011.

- (8) **Section 103(37) and (38)** comes into force on 1 July 2011.
- (9) **Sections 68, 69, 70, 71, and 74** come into force on 29 August 2011.
- (10) **Section 62** comes into force on 2 November 2012.
- (11) **Sections 38, 72, 73, and 102(1)** come into force on 1 April 2013. 5
- (12) **Sections 26, 29(4), (6), (7), and (8) and 103(16)** come into force on the day of introduction of the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill** 20 May 2013. 10
- (12B) **Section 37F** comes into force on 25 June 2013.
- (13) **Sections 369B, 36, 37D, and 44** come into force on the first day of the first financial quarter beginning after this Act receives the Royal assent.
- (14) **Sections 6, 7, 8, 9, 10, 11, 12, 13, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 27B, 28, 30, 34, 35, 37, 37B, 37C, 37G, 38, 39, 40, 41, 42, 43, 55, 56, 57, 58, 59(1) and (2), 60, 61, 64, 66, 67, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 92B, 92C, 94, 95, 96, 98, 103(2), (3), (5), (6), (7), (9), (10), (11), (12), (14), (15), (17), (18), (18B), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (40), (41), (42), (43), (47), (48), (49), (50), (51), (51B), and (55), 105, 106, 112B, 115(1), 116, and 447-117, and 117B(b)** come into force on 1 April 2014. 20
25
- (15) **Sections 37BA, 52D, and 55B** come into force on 1 April 2016.

Part 1

Annual rates of income tax

- 3 **Annual rates of income tax for 2013–14 tax year** 30
Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2013–14 tax year, be paid at the basic rates specified in schedule 1 of that Act.

“(b) arises from an interest other than a FIF superannuation interest, in a foreign superannuation scheme (the **scheme**), that the person acquires—

“(i) when the person is a non-resident:

“(ii) in a transaction referred to in **subsection (18)(b) or (d)** from a person who acquired the interest in the scheme as a non-resident. 5

“Income

“(1) A benefit (a **foreign superannuation withdrawal**) that is not a pension or annuity and is derived by a person from a foreign superannuation scheme (the **scheme**) is income. The foreign superannuation withdrawal is income of the person if the benefit is in the form of— 10

“(a) an amount derived by the person as a member or beneficiary of the scheme: 15

“(b) an interest of the person in the scheme, withdrawn for reinvestment as an interest of the person in a superannuation scheme in New Zealand:

“(c) an interest of the person in the scheme, outside Australia, withdrawn for reinvestment as an interest of the person in a superannuation scheme in Australia: 20

“(d) an interest of the person in the scheme withdrawn, other than on the death of the person, for reinvestment as an interest of another person in a superannuation scheme.

“Exception 25

“(1B) A foreign superannuation withdrawal is not income of the person under **subsection (1)(d)** if the benefit is an interest of the person in the scheme withdrawn—

“(a) on the death of the person or under a relationship agreement arising from an event (the **relationship cessation**) that occurs when,— 30

“(i) for a marriage or civil union of the person, the marriage or civil union is dissolved or the person and the person’s spouse or civil union partner separate or begin to live apart (whether or not they continue to live in the same residence): 35

“(ii) for a de facto relationship of the person, the de facto relationship ends; and

- “(b) for immediate reinvestment as an interest, in a foreign superannuation scheme outside Australia, of another person who is—
- “(i) a spouse, civil union partner, or de facto partner of the person immediately before the death or the relationship cessation; and 5
- “(ii) a New Zealand resident.
- “Amounts within other provisions*
- “(2) A foreign superannuation withdrawal derived by a resident is subject to— 10
- “(a) section CW 27 (Certain income derived by transitional resident), if the person is a transitional resident:
- “(b) section CW 28B (Foreign superannuation withdrawal in initial period of residency), if the person—
- “(i) is a resident under section YD 1 (Residence of natural persons); and
- “(ii) acquired the person’s interest in the scheme when a non-resident under section YD 1 or under an applicable double tax agreement; and
- “(iii) is not a transitional resident; and 20
- “(iv) derives the foreign superannuation withdrawal in ~~an~~the exemption period ~~given by~~referred to in subsection (4):
- “(c) section CW 28C (Foreign superannuation withdrawal exceeding given amount), if the foreign superannuation withdrawal is derived in the person’s assessable period ~~given by~~referred to in subsection (5)(5B), to the extent to which the foreign superannuation withdrawal exceeds— 25
- “(i) the amount ~~given by~~referred to in subsection (7) as the assessable withdrawal amount, if the person uses the schedule method; or 30
- “(ii) the amount ~~given by~~referred to in subsection (13) as the assessable withdrawal amount, if the person uses the formula method. 35
- “Eligibility for exemption period*
- “(3) A person has an exemption period under **subsection (4)** for an interest in a scheme that the person acquires before—

- “(a) the person is a transitional resident under section HR 8(2) (Transitional residents), disregarding any choice under section HR 8(4); or
- “(b) the person is a New Zealand resident who is not a non-resident under a double tax agreement, at a time (the **exemption commencement**) when the person—
- “(i) is not a transitional resident; and
- “(ii) has not had an exemption period previously.
- “(3) A person has an exemption period referred to in **subsection (4)** for an interest in the scheme if the person—
- “(a) does not have, before acquiring the interest, an exemption period for an interest in a foreign superannuation scheme; and
- “(b) acquires the interest as a non-resident; and
- “(c) owns the interest as a non-resident until a date (the **exemption commencement**), whether before or after the commencement of this Act, when the person becomes a New Zealand resident.
- “Exemption period*
- “(4) The period (the **exemption period**) in which a foreign superannuation withdrawal may be exempt income of the person under sections CW 27 or **CW 28B** is—
- “(a) for a person who meets the requirements of **subsection (3)(a)**, the period for which the person is a transitional resident under section HR 8(2), disregarding any choice under section HR 8(4); or
- “(b) for a person who meets the requirements of **subsection (3)(b)**, the period from the exemption commencement to the earlier of—
- “(i) the end of the period of 48 months beginning after the month of the exemption commencement;
- “(ii) the date on which the person becomes a non-resident again.
- “(4) The period (the **exemption period**) in which a foreign superannuation withdrawal may be exempt income of the person under **section CW 28B** is the period from the exemption commencement to the earlier of—

- “(a) the end of the period of 48 months beginning after the month in which the person meets the requirements of section YD 1(2) or (3) ignoring the rule in section YD 1(4):
- “(b) the date on which the person becomes a non-resident again. 5
- “Assessable period*
- “(5) The period (the **assessable period**) in which a person’s foreign superannuation withdrawal for an interest in a scheme is not subject to sections CW 27 or **CW 28B** is the period— 10
- “(a) beginning from the last of—
- “(i) when the person is treated under **subsection (1B)** as acquiring the interest in the scheme;
- “(ii) when the person becomes a New Zealand resident; 15
- “(iii) when the person’s exemption period under **subsection (4)** ends; and
- “(b) ending when the person becomes a non-resident.
- “Assessable withdrawal amount*
- “(5) The part (the **assessable withdrawal amount**) of a foreign superannuation withdrawal that is treated as not being exempt income of the person depends on the total period (the **assessable period**) referred to in **subsection (5B)** for the person and the interest in the scheme. 20
- “Assessable period* 25
- “(5B) The assessable period for the person and a foreign superannuation withdrawal arising from an interest in the foreign superannuation scheme,—
- “(a) begins on the later of—
- “(i) the date when the person becomes, for the first time after acquiring the interest in the scheme, a New Zealand resident who owns the interest in the scheme; 30
- “(ii) the end of the person’s exemption period;
- “(b) ends on the date when the person derives the foreign superannuation withdrawal (the **distribution time**): 35
- “(c) does not include a period in which the person is a non-resident.

“Assessable withdrawal amount from assessable period

“Methods for determining assessable withdrawal amount

- “(6) The part (the **assessable withdrawal amount**) of a foreign superannuation withdrawal, derived in the assessable period, that is treated as not being exempt income is The assessable withdrawal amount for a foreign superannuation withdrawal derived by the person is calculated for— 5
- “(a) ~~given by~~ the schedule method under **subsection (7)**, if **paragraph (b)** does not apply; or
- “(b) ~~given by~~ the formula method under **subsection (13)**, 10
if—
- “(i) the scheme is a foreign defined contribution scheme; and
- “(ii) the person has the information required for the application of the formula method; and 15
- “(iii) the person derives no withdrawal, other than a pension or annuity, from the scheme before 1 April 2014; and
- “(iv) the person has not used the schedule method for the interest in the scheme; and 20
- “(v) for a person who acquires the interest in the scheme as a bequest from a deceased New Zealand resident, the deceased person of a spouse, civil union partner, or de facto partner by a transfer referred to in **subsection (18)(d)**, the other person did not use the schedule method for the interest in the scheme; and 25
- “(vi) the person chooses to use the formula method for the interest in the scheme.

“Schedule method: assessable withdrawal amount 30

- “(7) The assessable withdrawal amount under the schedule method is calculated using the formula:—

(super withdrawal – contributions left) × schedule year fraction.

“Definition of items in formula in subsection (7)

- “(8) In the formula in **subsection (7)**,—
- “(a) **super withdrawal** is the amount of the foreign superannuation withdrawal: 35

- “(b) **contributions left** is the lesser of the amount of the item super withdrawal and the total amount of recognised contributions under **subsection (16)** made in the assessable period before the distribution time, reduced, for each ~~foreign superannuation~~ withdrawal (the **earlier withdrawal**), other than a pension or annuity, made in the assessable period before the distribution time, by an amount equal to the lesser of—
- “(i) the amount of the earlier withdrawal:
- “(ii) the value of the item contributions left, immediately before the time of the earlier withdrawal:
- “(c) **schedule year fraction** is the fraction given in **schedule 33** (Default fractions of foreign superannuation withdrawals), column 2 of the row for which the entry in column 1 corresponds to the greater of 1 and the number of income years beginning—
- “(i) ~~in the~~ assessable period for the person under **subsection (5)(5B)**; and
- “(ii) ~~after the time when the person acquires the interest; and~~
- “(iii) before the time (the **distribution time**) when the person derives the foreign superannuation withdrawal distribution time.
- “*Formula method: distributed gain*
- “(9) Under the formula method, the part (the **distributed gain**) of a foreign superannuation withdrawal that is treated as consisting of gains made by the scheme during the assessable period is calculated using the formula:—
- $$(\text{super withdrawal} \times \text{calculated gains fraction}) - \text{other gains out}$$
- “*Definition of items in formula in subsection (9)*
- “(10) In the formula in **subsection (9)**,—
- “(a) **super withdrawal** is the amount of the foreign superannuation withdrawal:
- “(b) **other gains out** is the total amount of distributed gains given by referred to in **subsection (9)** for foreign superannuation withdrawals in ~~the~~ assessable period before the distribution time.

“Formula method: *calculated gains fraction*

- “(11) In the formula in **subsection (9)**, **calculated gains fraction** is the greater of zero and the amount calculated using the formula—

$$\frac{\text{predistribution} + \text{withdrawals} - \text{transitvalue} - \text{contributions}}{\text{predistribution}}$$

“Definition of items in formula in subsection (11)

5

- “(12) In the formula in **subsection (11)**,—

“(a) **predistribution** is the value of the interest in the scheme immediately before the distribution time:

“(b) **withdrawals** is the total amount of foreign superannuation withdrawals from the interest in the scheme in the assessable period before the distribution time:

10

“(c) **transitvalue** is the value of the interest in the scheme at the beginning of the assessable period:

“(d) **contributions** is the amount of ~~contributions to the interest in the scheme made~~ recognised contributions under subsection (16) made to the interest in the scheme in the assessable period before the distribution time.

15

“Formula method: *assessable withdrawal amount*

- “(13) For the ~~foreign superannuation withdrawal~~, the amount ~~(the assessable withdrawal amount)~~ not exempt under **section ~~GW 28C~~** The assessable withdrawal amount under the formula method is the amount calculated using the formula:—

20

$$\text{gain out} \times (\text{grow rate} - 1) \times \text{tax rate} \times (\text{assessable years} - 1) + \text{gain out}$$

“Formula method: *grow rate*

- “(14) In the formula in **subsection (13)**, **grow rate** is the amount calculated using the formula—

25

$$\left(\frac{\text{accrued total}}{\text{transitvalue}} \right)^{\frac{1}{\text{assessable years}}}$$

“Definition of other items in formulas in subsections (13) and (14)

- “(15) In the formulas in **subsections (13) and (14)**,—

- “(a) **gain out** is the amount of the distributed gain ~~given by~~ referred to in **subsection (9)** for the foreign superannuation withdrawal:
- “(b) **tax rate** is the ~~tax rate given by schedule 1, part A, table 1, row 4 (Basic income tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):~~ tax rate referred to in schedule 6, table 1, row 1 (Prescribed rates: PIE investments and retirement scheme contributions): 5
- “(c) **assessable years** is the greater of 1 and the number of tax years beginning in ~~an~~ the assessable period and before the distribution time: 10
- “(d) **accrued total** is the value of the interest in the scheme immediately before the distribution time, increased by the value of ~~distributions~~ foreign superannuation withdrawals from the interest in the scheme in the assessable period before the distribution time, and reduced by the value of recognised contributions under **subsection (16)** made to the interest in the scheme in an ~~the~~ assessable period before the distribution time: 15 20
- “(e) **transit value** is the value of the interest in the scheme at the beginning of the assessable period.

“*Recognised contributions*

- “(16) The value of a payment to the scheme is taken into account in the formulas in **subsections (7), (11), and (14)** as a contribution (a **recognised contribution**) if the payment— 25
 - “(a) is made when the person is a New Zealand resident ~~and is a non-resident under no double tax agreement~~ who is treated as a New Zealand resident under all applicable double tax agreements; and 30
 - “(b) is made by the person, by the person’s employer, or for the benefit of the person; and
 - “(c) is required by the rules of the scheme; and
 - “(d) is subject to employer superannuation contribution tax or fringe benefit tax if made by the person’s employer. 35

“*Interests in superannuation scheme*

- “(17) For the purposes of this section, an interest of a person in a foreign superannuation scheme consists of rights of the person

to benefit as a member or beneficiary from distributions by the superannuation scheme.

“Calculating assessable period

- ~~“(18)~~ In calculating under **subsection (5)** the assessable period for a person who acquires an interest in a foreign superannuation scheme, the person is treated as acquiring the interest,—
- ~~“(a)~~ if none of **paragraphs (b) to (d)** apply, when the first contribution is made to the superannuation scheme, in relation to the rights, by or for the person; or
 - ~~“(b)~~ if the person is converting existing rights in another superannuation scheme (the **former scheme**) to corresponding rights of the person in the superannuation scheme, when the person acquired the rights in the former scheme; or
 - ~~“(c)~~ if the person is acquiring rights in the superannuation scheme from another person, other than by a transaction to which **paragraph (d)** applies, when the person acquires the rights; or
 - ~~“(d)~~ if the person is acquiring existing rights in the superannuation scheme by a transfer from the estate of a deceased New Zealand resident after the beginning of the assessable period for the rights for the deceased person, the beginning of that assessable period.
- “(18) In calculating under **subsection (5B)** the assessable period for a person who acquires an interest in a foreign superannuation scheme,—
- “(a) if none of **paragraphs (b) to (d)** apply, the person is treated as acquiring the interest when the first contribution is made to the superannuation scheme, in relation to the rights, by or for the person; or
 - “(b) if the person is converting existing rights of the person in another foreign superannuation scheme (the **former scheme**) to corresponding rights of the person in the superannuation scheme, the person is treated as acquiring the interest when the person acquired the rights in the former scheme; or
 - “(c) if the person is acquiring existing rights in the superannuation scheme from another person, other than by a transaction to which **paragraph (d)** applies, the person

- is treated as acquiring the interest when the person acquires the rights; or
- “(d) if the person is acquiring existing rights in the superannuation scheme of a New Zealand resident (the **former owner**) as a surviving spouse, civil union partner, or de facto partner of the deceased former owner, or as a former spouse, civil union partner, or de facto partner of the former owner under a relationship agreement arising from the end of the marriage, civil union, or de facto relationship, the person is treated as— 5
- “(i) having owned the interest from the time the former owner acquired the interest; and
- “(ii) having made all payments to the scheme that were made by or for the former owner; and
- “(iii) having derived all distributions from the scheme that the former owner derived; and 15
- “(iv) having been a New Zealand resident owning the interest during the assessable period of the former owner, at the time of the transfer, for the interest; and 20
- “(v) continuing to own the interest from the time of the transfer.
- “Relationship with rest of Act*
- “(19) If the assessable period for a person and an interest begins before 1 April 2014, this section overrides any provision of this Act that would otherwise quantify and allocate income of the person, from the part of the interest unaffected by withdrawals derived before 1 April 2014,— 25
- “(a) for the period of ownership before 1 April 2014; and
- “(b) not assessed for tax before 1 April 2014. 30
- “Defined in this Act: amount, de facto partner, double tax agreement, FIF superannuation interest, foreign defined contribution scheme, foreign superannuation withdrawal, foreign superannuation scheme, income, income year, New Zealand resident, non-resident, relationship agreement, superannuation scheme, transitional resident”. 35

9 Section CQ 5 amended (When FIF income arises)
Repeal section CQ 5(1)(c)(iii) and (xiii).

**9B Section CR 4 amended (Income for general insurance
outstanding claims reserve)**

Replace section CR 4(3)(a) with:

“(a) opening outstanding claims reserve is the total for the general insurance contracts of—

“(i) the amount of the insurer’s closing outstanding claims reserve for the income year before the current year (the prior year), for general insurance contracts to which neither of subparagraphs (ii) and (iii) apply:

“(ii) if the current year is the first year that this section applies to the insurer and general insurance contracts, the amount of the insurer’s reserve for outstanding claims liability, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year, for general insurance contracts to which subparagraph (iii) does not apply:

“(iii) the amount calculated using the formula in section DW 4(4B) (Deductions for general insurance outstanding claims reserve), for general insurance contracts transferred to the insurer in the current year by a transfer to which section ED 3(1B) (Part-year tax calculations for transfers: general insurance OCR) applies:”.

**10 Section CT 1 amended (Disposal of exploratory material
or petroleum mining asset)**

In section CT 1(3), replace “arrangements for petroleum mining” with “arrangements for mining operations”.

**11 Section CT 4 amended (Partnership interests and disposal
of part of asset)**

In section CT 4, replace “arrangements for petroleum mining” with “arrangements for mining operations”.

**12 Section CT 5 amended (Petroleum mining operations
outside New Zealand)**

In section CT 5, replace “arrangements for petroleum mining” with “arrangements for mining operations”.

13 Subpart CU replaced (Income from mineral mining)

- (1) Replace subpart CU (~~Income from mineral mining~~) with—:
 “Subpart CU—Income from mineral mining

“**CU 1 Mineral miner’s income**

An amount that a mineral miner derives from their mining operations or associated mining operations is income of the mineral miner. 5

“Defined in this Act: amount, associated mining operations, mineral miner, mining operations, income

“**CU 2 Treatment of mining land**

- ~~(1) If a mineral miner acquires land or an interest in land for the purposes of their mining operations or associated mining operations, an amount that the mineral miner derives from disposing of the land or interest in land is income of the mineral miner for the income year of disposal.~~ 10

“When this section applies

- “(1) This section applies when—

“(a) a mineral miner acquires land or an interest in land for the purposes of current or intended mining operations or associated mining operations; and 20

“(b) the land—

“(i) constitutes a mining permit area or is land adjacent to it;

“(ii) forms, or is intended to form, part of a mining permit area or land adjacent to it. 25

“Income

- “(2) An amount that the mineral miner derives from disposing of the land or interest in land is income of the mineral miner for the income year of disposal.

“Defined in this Act: amount, associated mining operations, income, income year, interest, land, mineral miner, mining operations, permit area 30

“**CU 3 Disposal of mineral mining assets**

“Income

- “(1) The consideration that a mineral miner derives from disposing of a mineral mining asset is income of the mineral miner. 35

“Relationship with section CX 43

“(2) This section is overridden by **section CX 43** (Farm-out arrangements for mining operations).

“Defined in this Act: income, mineral miner, mineral mining asset

“CU 4 Recovery of certain expenditure 5

“When this section applies

“(1) This section applies when—

“(a) a mineral miner incurs an amount of mining exploration expenditure in relation to their mining operations or associated mining operations; and 10

“(b) the mineral miner is allowed a deduction for the expenditure for an income year under **section DU 1(1)(b)** (Mining expenditure: prospecting and exploration expenditure); and

“(c) the income year is later than the ~~2012–13~~2013–14 income year; and 15

“(cb) the expenditure is incurred in an income year for which the mineral miner is required under section 22 of the Tax Administration Act 1994 to keep records; and

“(d) the expenditure results in, produces, or generates an asset for the mineral miner; and 20

“(e) the mineral miner uses the asset for, or in relation to, the commercial production of a listed industrial mineral.

“Income

“(2) The mineral miner is treated as deriving income to the extent of the amount of expenditure that resulted in, produced, or generated the asset. However, the amount must not be more than the amount of the deduction referred to in **subsection (1)(b)**. 25

“Timing

“(3) The income is allocated to the income year in which the mineral miner uses the asset for, or in relation to, the commercial production of the mineral. 30

“Defined in this Act: amount, associated mining operations, commercial production, deduction, income, income year, interest, land, listed industrial mineral, mineral, mineral miner, mining exploration expenditure, mining operations 35

“**CU 5 Partnership interests and disposal of part of asset**

In this subpart and **subpart DU** (Mineral mining expenditure), and in **sections CX 43** (Farm-out arrangements for mining operations), and **GB 20** (Arrangements involving petroleum and mineral mining) unless the context otherwise requires,— 5

“(a) a partner is treated as having a share or interest in a mineral mining asset or other property of a partnership to the extent of their interest in the income of the partnership:

“(b) references to the disposal of an asset apply equally to the disposal of part of an asset. 10

“Defined in this Act: income, mineral mining asset, partner, partnership

“*Definitions*

“**CU 6 Meaning of mineral miner**

“*Meaning* 15

“(1) **Mineral miner** means a person to which 1 of the following applies:

“(a) the person’s only source of income is the business described in **subsection (2)**; or

“(b) the person’s main source of income is the business described in **subsection (2)**; or 20

“(c) the person’s only activity is 1 of the activities described in **subsection (3)**; or

“(d) the person’s main activity is 1 of the activities described in **subsection (3)**; or 25

“(e) the person proposes that their only activity or their main activity be 1 of the activities described in **subsection (3)**.

“*Business*

“(2) The business referred to in **subsection (1)(a) and (b)** is the business of mining a listed industrial mineral in New Zealand. 30

“*Activities*

“(3) The activities referred to in **subsection (1)(c), (d), and (e)** are—

“(a) exploring, searching, or mining for a listed industrial mineral in New Zealand; or 35

“(b) performing development work for exploring, searching, or mining for a listed industrial mineral in New Zealand.

“*Service for reward*

“(4) An activity described in **subsection (3)** does not include an activity done or to be done as a service to another person for reward unless the reward— 5

“(a) is wholly or mainly related to and dependent on the production of the listed industrial mineral; or

“(b) arises wholly or mainly through participation in profits from the production of the listed industrial mineral. 10

“Defined in this Act: business, income, listed industrial mineral, New Zealand

“**CU 7 Some definitions**

“*Meaning of mining operations*

“(1) **Mining operations** means operations that—

“(a) are carried on by a mineral miner in a permit area in New Zealand for the purpose of deriving income; and 15

“(b) consist of—

“(i) exploring, or searching for 1 or more listed industrial minerals; or

“(ii) performing development work for exploring, searching, or mining for 1 or more listed industrial minerals; or 20

“(iii) extracting 1 or more listed industrial minerals; or

“(iv) mining or performing work directly related to mining for 1 or more listed industrial minerals. 25

“*Meaning of associated mining operations*

“(2) **Associated mining operations** means operations that—

“(a) are carried on in New Zealand in association with mining operations; and

“(b) consist of the accumulation, initial treatment, and transport of listed industrial minerals up to the stage at which the minerals— 30

“(i) are in a saleable form and in a location suitable for a person to acquire them; or

“(ii) are ready to be processed beyond the initial treatment or to be used in a manufacturing operation. 35

“Meaning of initial treatment

“(3) For the purposes of **subsection (2)(b)(ii)**, **initial treatment**—

“(a) means—

“(i) breaking, cleaning, crushing, grading, grinding, 5
leaching, screening, or sizing; or

“(ii) a treatment that is applied before concentration
or, for a listed industrial mineral not requiring
concentration, a treatment that would have been
applied before concentration if the mineral had 10
required concentration; or

“(iii) concentration; and

“(b) does not include—

“(i) calcining or sintering; or

“(ii) the production of, or processes carried on in con- 15
nection with the production of, alumina, or pel-
lets, or other agglomerated forms of iron.

“Defined in this Act: associated mining operations, income, initial treatment,
listed industrial mineral, mineral, mineral miner, mining operations, New 20
Zealand, permit area

“CU 8 Meaning of listed industrial mineral

“Meaning

“(1) **Listed industrial mineral**—

“(a) means alumina minerals (for example, bauxite, corun- 25
dum, diaspore, and gibbsite), aluminous refractory
clays containing over 30% alumina in the fired state,
aluminous refractory fireclays containing over 30%
alumina in the fired state, andalusite, antimony, as-
bestos, barite, bentonite (except bentonite mined in the
area formerly known as Malvern County), bituminous 30
shale, chromite, copper, diatomite, dolomite, feldspar,
fluorite, gold, halloysite, kaolin, kyanite, lead, magne-
site, manganese, mercury, mica, molybdenite, nickel,
perlite, phosphate, platinum group, pyrite, silica in
lump form used only in producing silicon carbide or 35
silicon metal or ferro silicon, silica in sand form used
only in producing silicon carbide, sillimanite, silver,
sodium chloride, sulphur, talc, tin, titanium, titanomag-

- netite, tungsten, uranium, wollastonite, zeolite, zinc,
and zircon:
- “(b) includes a mineral that is declared to be an industrial mineral in a *Gazette* notice given by the Minister.
- “*Minister to consider* 5
- “(2) Before giving a *Gazette* notice about a particular mineral, the Minister must consider whether the mineral is or is likely to be of importance—
- “(a) in the industrial development of New Zealand:
- “(b) as a means of reducing the quantity of industrial minerals or industrial rock required to be imported into New Zealand: 10
- “(c) as an item of export from New Zealand.
- “Defined in this Act: listed industrial mineral, mineral, Minister, New Zealand
- “**CU 9 Some definitions** 15
- “*Meaning of mineral mining asset*
- “(1) **Mineral mining asset** means—
- “(a) a mining or prospecting right:
- “(b) an exploration permit, a prospecting permit, or a mining permit: 20
- “(c) a share or partial interest in an asset described in **paragraph (a) or (b)**.
- “*Inclusion for particular purpose*
- “(2) For the purposes of **section GB 20** (Arrangements involving petroleum and mineral mining), a mineral mining asset also includes an asset that is acquired by a mineral miner for the purposes of their mining operations or associated mining operations. 25
- “*Exclusion*
- “(3) A mineral mining asset does not include land. 30
- “*Meaning of mining or prospecting right*
- “(4) For the purposes of this section, **mining or prospecting right**—
- “(a) means an authority, concession, easement, lease, licence, option, permit, privilege, right, or title relating 35

- to exploring, searching, or mining for, or carrying on an operation to recover, a listed industrial mineral; and
- “(b) includes a share or interest in any such authority, concession, easement, lease, licence, option, permit, privilege, right, or title. 5
- “Defined in this Act: associated mining operations, exploration permit, land, lease, listed industrial mineral, mineral miner, mineral mining asset, mining operations, mining or prospecting right, mining permit, permit, prospecting permit”.
- (2) **Subsection (1)** applies for the 2014–15 and later income 10 years.
- 14 Section CV 2 amended (Consolidated groups: income of company in group)**
- (1) In section CV 2(1), replace “section FM 8 (Transactions between group companies: income)” with “section FM 9 15 (Amounts that are company’s income)”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 15 New section CV ~~18~~19 inserted (Additional income for certain imputation credits) 20**
- After section CV ~~16~~18, insert:
- “CV ~~18~~19 **Additional income for certain imputation credits**
- “When this section applies*
- “(1) This section applies when a person has assessable income for the purposes of section LE 1 (Tax credits for imputation credits) because section LE 1(4B) applies (the **LE 1(4B) income**), and the LE 1(4B) income includes an imputation credit. 25
- “Income*
- “(2) For the income year to which the LE 1(4B) income relates, the 30 person derives an amount of income equal to the amount of the tax credit for the imputation credit under **section LE 8B** (Dividends from certain FIF interests).
- “Defined in this Act: assessable income, imputation credit, income, income year, tax credit”. 35

- 16 Section CW 12 amended (Proceeds of share disposal by qualifying foreign equity investor)**
 Insert in section CW 12(4), in the appropriate alphabetical order:
 “**qualifying foreign equity investor** means a person who is not resident in New Zealand and who is 1 or more of—
 “(a) a foreign exempt entity:
 “(b) a person who is part of a foreign exempt partnership:
 “(c) a foreign exempt person.” 5
- 17 Heading before section CW 28 amended (Income from living allowances, compensation, and government grants)** 10
 In the heading before section CW 28, insert “*foreign superannuation,*” before “*compensation*”.
- 18 New sections CW 28B and CW 28C inserted**
 After section CW 28, insert: 15
- “**CW 28B Foreign superannuation withdrawal in initial period of residency**
 A foreign superannuation withdrawal is exempt income of a person if the person—
 “(a) ~~is not a transitional resident;~~ and 20
 “(b) meets the requirements of **section CF 3(2)(b)** (Withdrawals from foreign superannuation scheme); and
 “(c) derives the foreign superannuation withdrawal in the exemption period ~~given by~~ referred to in **section CF 3(4)** for the person. 25
 “Defined in this Act: exempt income, foreign superannuation withdrawal, transitional resident
- “**CW 28C Foreign superannuation withdrawal exceeding given amount**
 A foreign superannuation withdrawal derived by a person in the assessable period ~~given by~~ referred to in **section CF 3(5)(5B)** (Withdrawals from foreign superannuation scheme) for the person is exempt income of the person to the extent to which the foreign superannuation withdrawal exceeds the amount— 35

“(a) ~~given by~~ calculated using the formula in **section CF 3(7)** as the ~~distributed gain~~ assessable withdrawal amount, if the person uses the schedule method under that section; or

“(b) ~~given by~~ calculated using the formula in **section CF 3(13)** as the assessable withdrawal amount, if the person uses the formula method under that section. 5

“Defined in this Act: exempt income, foreign superannuation withdrawal”.

18B New section CW 55BAB inserted (Rebate of fees paid by FIF) 10

(1) After section CW 55BA, insert:

“CW 55BAB Rebate of fees paid by FIF

“When this section applies

“(1) This section applies to a person having an attributing interest in a foreign investment fund when— 15

“(a) the FIF pays fees to another person; and

“(b) the person derives, from the other person, a rebate of the fees; and

“(c) the person is not allowed a deduction for the fees; and

“(d) the person’s FIF income or loss from the interest is not calculated using the comparative value method. 20

“(2) The amount of the rebate is exempt income.

“Defined in this Act: attributing interest, comparative value method, deduction, exempt income, FIF, foreign investment fund, loss, pay”.

(2) **Subsection (1)** applies to a person for a rebate derived— 25

(a) on or after the date (the **assent date**) on which the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act **2013** receives the Royal assent:

(b) at or after the beginning of the 2009–10 income year and before the assent date, if the person gives notice to the Commissioner of an election to have the inserted provision apply to rebates derived in the income year of the rebate. 30

19 Section CX 43 replaced (Farm-out arrangements for petroleum mining) 35

(1) Replace section CX 43 with:

“CX 43 Farm-out arrangements for mining operations	
Farm-in expenditure under a farm-out arrangement is excluded income of a petroleum miner or a mineral miner, as applicable, who is the farm-out party in the farm-out arrangement.	5
“Defined in this Act: excluded income, farm-in expenditure, farm-out arrangement, mineral miner, petroleum miner”.	
(2) Subsection (1) applies for the 2014–15 and later income years.	
20 Section CX 44 repealed (Disposal of mining shares)	10
Repeal section CX 44.	
20 <u>Heading and section CX 44 repealed (Disposal of mining shares)</u>	
<u>Repeal the heading before section CX 44 and section CX 44.</u>	
21 Section CX 45 repealed (Disposal of mining shares acquired with reinvestment profit)	15
Repeal section CX 45.	
22 Section CX 46 repealed (Repayment of loans made from reinvestment profit)	20
Repeal section CX 46.	
23 Section CZ 2 repealed (Mining company’s 1970–71 tax year)	
Repeal section CZ 2.	
24 Section CZ 4 repealed (Mineral mining: company making loan before 1 April 1979)	25
Repeal section CZ 4.	
25 New section CZ 21B inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)	
After section CZ 21, insert:	30

“CZ21B Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014

“When this section applies

- “(1) This section applies when a person— 5
- “(a) derives an amount from a foreign superannuation scheme as a withdrawal other than a pension or annuity in the period beginning on 1 January 2000 and ending with 31 March 2014; and
 - “(b) does not include the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and 10
 - “(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and
 - “(d) chooses to include in a return of income for an income year (the **return year**) ending on or after 31 March 2014 that is the 2013–14 or 2014–15 income year an amount of assessable income as relating to the omitted withdrawal all omitted withdrawals from the foreign superannuation scheme. 15 20

“Amount of income

- “(2) The person is treated as deriving, in the return year, from the omitted ~~withdrawal~~ withdrawals an amount of assessable income (the **withdrawal income**) equal to 15% of the amount of the omitted withdrawal total amount of the omitted withdrawals. 25

“Tax on omitted withdrawal

- “(3) The amount of the liability of the person for income tax (the **withdrawal tax liability**) arising from the omitted ~~withdrawal~~ withdrawals is the difference between the person’s 30 income tax liability for the return year, with the withdrawal income included in the person’s assessable income for that year, and the income tax liability that the person would have for the return year if the withdrawal income were not included in the person’s assessable income for that year. 35

“Due date for payment of tax amount

- “(4) The amount of the ~~withdrawal tax liability~~ arising from the person’s return of income for the return year has a due date

for payment corresponding to the due date for payment of the person's terminal tax for the earlier of the return year and the person's 2014–15 income year.

“Relationship with law applicable when withdrawal derived

- “(5) This section overrides the law applying to the taxation of the omitted ~~withdrawal~~ withdrawals when the person derived the omitted ~~withdrawal~~ withdrawals and of the person's interest in the foreign superannuation scheme for the period ending by 31 March 2014 in which the person had the interest. 5

“Defined in this Act: assessable income, foreign superannuation scheme, ~~foreign superannuation withdrawal~~, income tax, income tax liability, income year, return of income, terminal tax”. 10

25B Section CZ 25 amended (Land and buildings as revenue account property affected by Canterbury earthquakes and replaced—insurance or compensation, Government purchase) 15

- (1) In section CZ 25(1), words before paragraph (a), replace “2016–17 income year” with “2019–20 income year”.
- (2) In section CZ 25(1)(a)(i), replace “abolished” with “demolished”. 20
- (3) In section CZ 25(1)(a)(ii), replace “Government” with “Crown”.
- (4) In section CZ 25(1)(a)(ii), replace “section 53(1) of the Canterbury Earthquake Recovery Act 2011” with “section 53(1), 54, or 55 of the Canterbury Earthquake Recovery Act 2011”. 25
- (5) Replace section CZ 25(1)(b) with:
“(b) in the absence of this section, would have in or before the current year a total amount of income (the **insurance income**) under sections CB 6, CB 7, CB 12, CB 13, and CG 6 (which relate to income from certain disposals of land and from compensation for trading stock) from the consideration, compensation, or insurance for the affected property that exceeds the total amount of deductions under sections DB 23 and DB 27 (which relate to deductions for the cost or value of land) for the affected property; and”. 30
- (6) Replace section CZ 25(1)(c) with: 35

- “(c) plans, in the current year, to acquire property (the **replacement property**)—
“(i) replacing affected property; and
“(ii) meeting the requirements of subsection (4); and
“(iii) having a cost exceeding the total amount of de- 5
ductions under sections DB 23 and DB 27 for the
affected property; and”.
- (7) In section CZ 25(2), replace “The amount of the excess (the **excess recovery**) referred to in subsection (1)(a)” with “The amount (the **excess recovery**) by which the insurance income 10
referred to in **subsection (1)(b)** exceeds the deductions referred to in **subsection (1)(b)**”.
- (8) Replace section CZ 25(3)(a) with:
“(a) for the purposes of determining the value of the replace- 15
ment property for section EA 2 (Other revenue account
property), the amount of the person’s expenditure on the
replacement property is reduced by—
“(i) the amount calculated by dividing the replace- 20
ment cost by the total amount of deductions
under sections DB 23 and DB 27 for the affected
property and multiplying the result by the excess
of the insurance income over the replacement
cost, if the insurance income exceeds the re- 25
placement cost and the calculated amount is less
than or equal to the amount of insurance income;
or
“(ii) the amount of the excess recovery, if the insur- 30
ance income does not exceed the replacement
cost or is less than the amount calculated in **sub-**
paragraph (i); and”.
- (9) In section CZ 25(4)(a), replace “2015–16 income year” with “2018–19 income year”.
- (10) In section CZ 25(5), heading, replace “2015–16 income year” with “2018–19 income year”.
- (11) In section CZ 25(5)(a), replace “2015–16 income year” with 35
“2018–19 income year”.

**25C Section CZ 26 replaced (Land and buildings affected
by Canterbury earthquakes—sections CB 9 to CB 12
overridden for Government purchases)**

(1) Replace section CZ 26 with:

**“CZ 26 Land and buildings affected by Canterbury
earthquakes—sections CB 9 to CB 12 and CB 14
overridden for Crown purchases**

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Sections CB 9 to CB 12 and CB 14 (which relate to disposals
within 10 years of acquisition) do not apply to a person and
land or buildings purchased by the Crown from the person
under section 53(1), 54, or 55 of the Canterbury Earthquake
Recovery Act 2011.

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“Defined in this Act: land”.

(2) In the heading to **section CZ 26**, replace “**CB 12**” with
“**CB 11**”.

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(3) In **section CZ 26**, replace “**CB 12**” with “**CB 11**”.

**26 New section CZ 27 inserted (Prior bad debt deductions
clawback)**

After section CZ 26, insert:

“CZ 27 Prior bad debt deductions clawback

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“When this section applies

“(1) This section applies when—

“(a) a person acquires a debt before the introduction of the
**Taxation (Annual Rates, Foreign Superannuation,
and Remedial Matters) Bill** (the introduction day);
and

25

“(b) the debt exists on the first day of the 2014–15 income
year and a base price adjustment under section EW 31
(Base price adjustment formula) is not calculated for the
debt in the 2014–15 income year or an earlier income
year; and

30

“(c) the person has taken, in a return of income, a deduction
for the debt under section DB 31 (Bad debts) for an
income year that starts before the introduction day (a
prior bad debt deduction); and

35

“(d) the prior bad debt deduction arose before the introduc-
tion day; and

“(e) the person does not have a dispute with the Commissioner on the introduction day in relation to any prior bad debt deduction for the debt.

“Income: prior bad debt deductions clawback

“(2) The person has an amount of income equal to the difference between their total prior bad debt deductions for the debt, and the amount of deductions that they would have had for the debt under section DB 31 for the same period of the prior bad debt deductions if **section DB 31(4B), (4C), and (5B)** were treated as applying on and after the first day that the person acquires the debt. 5 10

“Defined in this Act: Commissioner, deduction, income, income year, return of income”.

27 New section CZ 28 inserted (Transitional provision for mineral mining: previously appropriated mining expenditure) 15

(1) After **section CZ 27**, insert:

“CZ 28 Transitional provision for mineral mining: previously appropriated mining expenditure

“When this section applies 20

“(1) This section applies when—

“(a) a mineral miner appropriates an amount of income for an income year to mining exploration expenditure or mining development expenditure; and

“(b) the income year precedes the 2014–15 income year; and 25

“(c) the mineral miner has a deduction under section DU 4 (Income appropriated to expenditure) and a corresponding amount of income under section CU 9 (Previous deduction for income appropriated) as those sections were immediately before the enactment of the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2013**; and 30

“(d) as a result of the application of those sections, the mineral miner has an income tax liability for the 2014–15 income year. 35

“Timing

“(2) The mineral miner may allocate the corresponding amount of income equally to the 2014–15 and 2015–16 income years.

“Defined in this Act: amount, deduction, income, income tax liability, income year, mineral miner, mining development expenditure, mining exploration expenditure”.

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(2) **Subsection (1)** applies for the 2014–15 and later income years.

27B Section DB 23 amended (Cost of revenue account property)

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(1) After section DB 23(2), insert:

“Relationship with sections CU 2 and DU 3

“(2B) **Sections CU 2** (Treatment of mining land) and **DU 3** (Acquisition of land for mining operations) override this section in relation to land or an interest in land as described in **section CU 2(1)(b)** that a mineral miner acquires for the purposes of their mining operations or associated mining operations.”

15

(2) In section DB 23, in the list of defined terms, insert “associated mining operations”, “land”, “mineral miner”, and “mining operations”.

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28 Section DB 30 amended (Cost of non-specified mineral)

(1) In section DB 30, replace the section heading with “**Cost of certain minerals**”.

(2) In section DB 30(1)(b), replace “a specified mineral” with “a listed industrial mineral”.

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29 Section DB 31 amended (Bad debts)

(1) Replace section DB 31(1)(a) with:

“(a) the debt is a debt—

“(i) written off as bad in the income year:

“(ii) for which the debtor is released from making all remaining payments under the Insolvency Act 2006 excluding Part 5, subparts 1 and 2 of that Act, or under the Companies Act 1993, or under the laws of a country or territory other than New Zealand, and the person is required to calculate a

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base price adjustment by section EW 29 (When calculation of base price adjustment required) for the debt for the income year:

- “(iii) for which the debtor is a company that is released from making all remaining payments by a deed or agreement of composition, and the person is required to calculate a base price adjustment by section EW 29 for the debt for the income year; and”.
- (2) In section DB 31(2)(a), replace “the requirement” with “a requirement”.
- (3) In section DB 31(3)(a), replace “the requirement” with “a requirement”.
- (4) In section DB 31(3)(d) replace “ subsection (5) does” with “**subsections (4B)** to (5) do”.
- (5) In section DB 31(4)(a), replace “the requirement of subsection (1)(a)” with “the requirement of **subsection (1)(a)(i)**”.
- (6) After section DB 31(4) insert:
- “*Face value*
- “(4B) A person is allowed a deduction, under subsection (3), for a debt acquired for less than its face value, only to the extent of the consideration the person pays for acquiring the debt.
- “*Limited recourse*
- “(4C) ~~A person is allowed a deduction, under subsection (3), for a debt that a limited recourse arrangement relates to, only to the extent to which the limited recourse arrangement does not relate to the debt.~~
- “*Limited recourse*
- “(4C) A person is allowed a deduction, under **subsection (3)**, for a debt that a limited recourse arrangement relates to, only to the extent to which the amount of the debt, after applying **subsection (4B)**, exceeds the consideration paid to the person under the limited-recourse arrangement in relation to that debt.
- “*Limited recourse: deduction when base price adjustment performed*
- “(4D) If **subsection (4C)** applies for a debt (the **debt**), then the person is allowed a deduction, at the time that the person performs a base price adjustment for the relevant limited-recourse

arrangement, equal to the positive amount calculated using the following formula:

consideration paid to person – consideration paid by person

“Definition of items in formula

“(4E) In the formula,—

“(a) **consideration paid to the person** is the consideration paid to the person under the relevant limited-recourse arrangement in relation to the debt: 5

“(b) **consideration paid by the person** is the consideration paid by the person under the relevant limited-recourse arrangement in relation to the debt.” 10

(7) After section DB 31(5), insert:

“A definition

“(5B) In this section, **limited recourse arrangement** means, in relation to a debt, an arrangement that is for the person’s business of dealing in or holding financial arrangements, and that requires repayment or no repayment of an amount under the arrangement contingent upon payment or no payment, in whole or in part, of the debt. 15

“(5B) In this section, **limited-recourse arrangement** means, in relation to a debt (the **debt**), an arrangement that is for the person’s business of dealing in or holding financial arrangements, and that provides for payment or non-payment by the person, contingent upon— 20

“(a) payment of some or all of the debt to the person:

“(b) failure to make payment of some or all of the debt to the person.” 25

(8) In section DB 31, in the list of defined terms, insert “arrangement” and “limited-recourse arrangement”.

(9) **Subsections (1), (2), (3), and (5)** apply for a debt that goes bad— 30

(a) in the 2008–09 and later income years, unless **paragraph (b)** applies:

(b) on and after the day on which this Act receives the Royal assent, if the person has filed a return of income for the income year in which the debt goes bad. 35

(9) **Subsections (1), (2), (3), and (5)** apply for a debt that goes bad in the 2008–09 and later income years.

30 Section DN 6 amended (When FIF loss arises)
 Repeal section DN 6(1)(c)(iii) and (xiii).

31 Section DP 11 amended (Cost of timber) 5
 In section DP 11, before subsection (4B), insert as a subsection heading “*Exception*”.

32 Section DR 3 amended (Life reinsurance outside New Zealand)
 In section DR 3(a), replace “:” with “; and”. 10

33 Section DR 4 amended (Life insurers’ claims reserves)

(1) In section DR 4, replace the heading with “**Life insurers’ claims reserves: non-participation policies**”.

(1B) Replace section DR 4(2), other than the heading, with:

“(2) The life insurer is allowed a deduction as provided by section EY 20 (Shareholder base allowable deductions: non-participation policies) for the amount of expenditure or loss relating to the life risk component of a claim paid for the income year under a life insurance policy that is not an annuity and not a profit participation policy.” 15
 20

(2) In section DR 4(3), replace “The general limitations still apply” with “The general limitations still apply, except that the capital limitation does not apply for a life insurer and the life risk ~~component of life insurance policies that~~ components of claims under life insurance policies that are not annuities and not profit participation policies and have been transferred to the life insurer”. 25

(3) In section DR 4, list of defined terms, insert “capital limitation” ~~and life risk component~~, “life risk component”, and “profit participation policy”. 30

(4) **Subsection (2)** applies **Subsections (1B) and (2)** apply—
 (a) on and after 1 July 2010, unless **paragraph (b)** applies:
 (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life

insurance rules in the Taxation (International Taxation,
Life Insurance, and Remedial Matters) Act 2009 in a
return of income for the tax year corresponding to the
first relevant income year.

- 34 Section DT 17 amended (Attribution of expenditure)** 5
In section DT 17(3) replace “(Arrangements involving petrol-
eum mining)” with “(Arrangements involving petroleum and
mineral mining)”.
- 35 Subpart DU replaced (Mineral mining expenditure)**
(1) Replace subpart DU with: 10
“Subpart DU—Mineral mining expenditure
“**DU 1 Mining expenditure: prospecting and exploration
expenditure**
“*Deduction*
“(1) A mineral miner is allowed a deduction for the following ex- 15
penditure:
“(a) mining prospecting expenditure:
“(b) mining exploration expenditure, subject to **section
DU 6.**
“*Link with subpart DA* 20
“(2) This section supplements the general permission. The general
limitations still apply.
“Defined in this Act: deduction, general limitation, general permission, mineral
miner, mining exploration expenditure, mining prospecting expenditure
- “**DU 2 Mining expenditure: rehabilitation expenditure** 25
“*Deduction*
“(1) A mineral miner is allowed a deduction for mining rehabilita-
tion expenditure.
“*Timing of deduction*
“(2) The deduction is allocated to the income year in which the 30
mineral miner ~~pays~~incurs the amount of mining rehabilitation
expenditure.

“Tax credit

“(3) If a mineral miner has a ~~tax~~net mining loss for a tax year after taking into account an amount of mining rehabilitation expenditure incurred in relation to a permit area, they may have a tax credit for the amount under **section LU 1** (Tax credits for mineral miners) for the corresponding income year. 5

“Link with subpart DA

“(4) This section supplements the general permission and overrides the capital limitation. The ~~general permission must still be satisfied and~~ the other general limitations still apply. 10

“Defined in this Act: amount, capital limitation, corresponding income year, deduction, general limitation, general permission, income year, mineral miner, mining rehabilitation expenditure, net mining loss~~pay~~, permit area, tax credit, ~~tax loss~~, tax year

“DU 3 Acquisition of land for mining operations 15

“Deduction

“(1) A mineral miner is allowed a deduction for expenditure incurred in acquiring land or an interest in land for the purposes of their mining operations or associated mining operations.

“Exclusions 20

“(2) **Subsection (1)** does not apply to the following expenditure:

“(a) expenditure incurred on or in relation to land that ~~is not part of the mineral miner’s permit area, or the site of any of the mineral miner’s mining operations or associated mining operations:~~— 25

“(i) does not constitute a mining permit area or land adjacent to it:

“(ii) does not form, or is not intended to form, part of a mining permit area or land adjacent to it.

“(b) expenditure referred to in **section DU 9(1)**: 30

“(c) expenditure for which the mineral miner has a deduction before disposing of the land or interest in land:

“(d) residual expenditure.

“Timing of deduction

“(3) The deduction is allocated to the income year in which the mineral miner disposes of the land or interest in land. 35

“Treatment of losses on disposal of land

- “(4) If the mineral miner has a ~~tax~~net mining loss for a tax year after taking into account the amount derived from the disposal of the land or interest in land, they may have a tax credit for the amount of the loss on disposal under **section LU 1** (Tax credits for mineral miners) for the corresponding income year. 5

“Link with subpart DA

- “(5) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 10

“Defined in this Act: amount, associated mining operations, capital limitation, deduction, general limitation, general permission, interest, income year, land, mineral miner, mining operations, net mining loss, permit area, residual expenditure, tax credit, ~~tax loss~~, tax year

“DU 4 Acquisition of mineral mining assets 15

“Deduction for assets acquired before mining permits

- “(1) If a person acquires a mineral mining asset before the date on which a mining permit for the permit area to which the asset relates is obtained, they are allowed a deduction for expenditure incurred in acquiring the asset. 20

“Mining development expenditure for later assets

- “(2) If a person acquires a mineral mining asset after the date on which a mining permit for the permit area to which the asset relates is obtained, the expenditure incurred in acquiring the asset is treated as mining development expenditure. 25

“No application costs

- “(3) For the purposes of this section, expenditure incurred does not include the cost of an application for a mining right or mining permit.

“Link with subpart DA 30

- “(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

“Defined in this Act: capital limitation, deduction, general limitation, general permission, mineral mining asset, mining development expenditure, mining permit, permit area 35

“DU 5 Farm-out arrangements

“When this section applies

“(1) This section applies when a farm-in party under a farm-out arrangement incurs farm-in expenditure that, if it were incurred by the farm-out party, would fall into 1 of the classes of mining expenditure referred to in **section DU 9(1)**. 5

“Treatment of farm-in expenditure

“(2) The farm-in expenditure is treated as if it were the applicable class of mining expenditure.

“Link with subpart DA

“(3) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply. 10

“Defined in this Act: capital limitation, farm-in expenditure, farm-out arrangement, general limitation, general permission

“DU 5B Deduction for certain mining expenditure spread over assumed life of mine 15

“When this section applies

“(1) This section applies when—

“(a) a mineral miner—

“(i) incurs an amount of mining development expenditure for an income year on or in relation to their mining operations or associated mining operations in a mining permit area: 20

“(ii) has incurred an amount of mining exploration expenditure in relation to a mining permit area on acquiring or creating property for which the mineral miner has been allowed a deduction in an earlier income year, and the amount is recovered as income under **section CU 4** (Recovery of certain expenditure); and 25 30

“(b) the mineral miner starts to use the mining permit area to derive income; and

“(c) the mineral miner either does not meet the requirements to allow allocation of the expenditure under **section EJ 20E** (Certain mining expenditure spread on basis of units of production) or, if they do, they do not choose to allocate the expenditure under that section. 35

“No deduction (with exception)

“(2) The mineral miner is denied a deduction for the expenditure except to the extent quantified and allocated under **section EJ 20B** (Certain mining expenditure spread over assumed life of mine). 5

“Link with subpart DA

“(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

“Defined in this Act: amount, associated mining operations, capital limitation, deduction, general limitation, general permission, income, income year, mineral miner, mining development expenditure, mining exploration expenditure, mining operations, permit area 10

“DU 5C Deduction for certain mining expenditure spread on basis of units of production 15

“When this section applies

“(1) This section applies when a mineral miner—

“(a) incurs expenditure described in **section DU 5B(1)(a)** on or in relation to their mining operations or associated mining operations in a mining permit area; and 20

“(b) starts to use the permit area to derive income; and

“(c) either—

“(i) uses IFRS rules to prepare their financial statements; or

“(ii) keeps appropriate records that are sufficient to enable the Commissioner to verify the calculations used by the mineral miner; and 25

“(d) chooses to apply this section in the way described in **section EJ 20E(2)** (Certain mining expenditure spread on basis of units of production). 30

“No deduction (with exception)

“(2) The mineral miner is denied a deduction for the expenditure except to the extent quantified and allocated under **section EJ 20E**.

“Link with subpart DA

“(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

“Defined in this Act: associated mining operations, capital limitation, Commissioner, deduction, financial statement, general limitation, general permission, IFRS, income, mineral miner, mining operations, permit area 5

“Spreading rule for certain expenditure

“**DU 6 Spreading rule for certain expenditure**

“When this section applies 10

“(1) This section applies when—

“(a) a mineral miner—

“(i) incurs an amount of mining development expenditure for an income year on or in relation to their mining operations or associated mining operations in a permit area: 15

“(ii) has incurred an amount of mining exploration expenditure in relation to a permit area on acquiring or creating property for which the mineral miner has been allowed a deduction in an earlier income year, and the amount is recovered as income under **section GU 4** (Recovery of certain expenditure); and 20

“(b) the mineral miner starts to use the permit area to derive income for the income year. 25

“No deduction (with exception)

“(2) The mineral miner is denied a deduction for the expenditure except to the extent allowed under this section.

“Spreading rule

“(3) The mineral miner is allowed a deduction for an income year that falls within the spreading period referred to in **section DU 7** of an amount calculated using the formula— 30

rate × value.

“Definition of items in formula

“(4) The items in the formula are defined in **subsections (5) and (6)**. 35

“Rate

“(5) **Rate** is—

- “(a) the straight-line rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in **section DU 8(2)**, if the mineral miner chooses to use the straight-line method: 5
- “(b) the diminishing value rate set out in schedule 12, column 1 that corresponds to the straight-line rate under **paragraph (a)**, if the mineral miner chooses to use the diminishing value method: 10

“Value

“(6) **Value** is—

- “(a) the adjusted tax value of the expenditure, if the mineral miner chooses to use the straight-line method: 15
- “(b) the diminished value of the expenditure for the income year, if the mineral miner chooses to use the diminishing value method:

“Link with subpart DA

“(7) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply: 20

“Defined in this Act: adjusted tax value, amount, associated mining operations, capital limitation, deduction, diminishing value method, diminishing value rate, general limitation, general permission, mineral miner, mining development expenditure, mining exploration expenditure, mining operations, permit area, straight-line method, straight-line rate 25

“DU 7 Length of spreading period

“When this section applies

“(1) This section applies for the purposes of **section DU 6(3)** to determine the length of the spreading period for certain mining expenditure of a mineral miner related to a permit area: 30

“Start and end dates

“(2) The spreading period is the number of income years that represents the assumed life of the mine referred to in **section DU 8** that comprises the permit area,— 35

“(a) starting from the later of—

“(i) the income year in which the mineral miner’s commercial production of a listed industrial mineral from the permit area starts; or

“(ii) the income year in which the expenditure is incurred; and

5

“(b) ending at the expiry of the assumed life of the mine.

“Defined in this Act: commercial production; income year; listed industrial mineral; mineral miner; permit area

“DU 8 Measurement of assumed life of mine and application to rate

10

“When this section applies

“(1) This section applies for the purposes of **section DU 6(5)(a)** for the item **rate** in the formula that determines the amount of the deduction a mineral miner is allowed for an income year that falls in the spreading period described in **section DU 7**.

15

“Formula for straight-line rate

“(2) The formula for the straight-line rate is—

$$\frac{100\%}{\text{assumed life.}}$$

“Definition of item in formula

“(3) In the formula, **assumed life**, for an amount of expenditure and an income year, is the period that the mineral miner chooses that—

20

“(a) is not less than the period that—

“(i) the mineral miner uses for accounting purposes as the amortisation period for the permit area; or

“(ii) for a mineral miner that is not required to use a amortisation period for their accounts, the mineral miner estimates is a reasonable period for the commercial production of a listed industrial mineral from the permit area; and

25

“(b) is not more than 25 years from the later of—

30

“(i) the date on which commercial production from the permit area starts; and

“(ii) that date on which the mineral miner incurs the expenditure relating to the permit area.

“Reassessment of life of mine

- “(4) A mineral miner must reassess the assumed life of the mine for the purposes of this section and **sections DU 7 and DU 12**. A reassessment must be made at the end of an income year that falls within the period, and applies from the start of the next income year for all remaining income years in the period in relation to all outstanding expenditure for which no deduction has yet been allowed. 5

“Defined in this Act: commercial production; deduction; income year; listed industrial mineral; mineral miner; permit area; straight-line rate 10

“Classes of mining expenditure

“**DU 9 Classes of mineral mining expenditure**

“Classes

- “(1) **Sections DU 10 to DU 13** set out the classes of mineral mining expenditure. They are— 15
- “(a) mining prospecting expenditure, *see* **section DU 10**;
 - “(b) mining exploration expenditure, *see* **section DU 11**;
 - “(c) mining development expenditure, *see* **section DU 12**;
 - “(d) mining rehabilitation expenditure, *see* **section DU 13**.

“No recharacterisation as mining prospecting expenditure 20

- “(2) For the purposes of this subpart, **subpart CU** (Income from mineral mining), **sections EJ 20B to EJ 20E** (which relate to spreading rules for certain mining expenditure), **GB 20** (Arrangements involving petroleum and mineral mining), IA 7(7), IS 1, and IS 2 (which relate to tax losses), and **LU 1** (Tax credits for mineral miners), no amount of expenditure that properly falls into a class of expenditure referred to in **subsection (1)(b) to (d)** may be characterised as mining prospecting expenditure because of the timing of the expenditure or for any other reason. 25 30

“Defined in this Act: amount, mining development expenditure, mining exploration expenditure, mining prospecting expenditure, mining rehabilitation expenditure

“**DU 10 Some definitions**

“Meaning of mining prospecting expenditure 35

- “(1) **Mining prospecting expenditure**—

- “(a) means expenditure that a mineral miner incurs directly in relation to the acquisition of—
 - “(i) a prospecting right under the Crown Minerals Act 1991:
 - “(ii) mining prospecting information, including labour, materials, services, and administrative expenses directly incurred in acquiring the information; and 5
- “(b) includes prospecting for minerals by electrical, geochemical, gravimetric, magnetic, radioactive, seismic, or other geological methods; and 10
- “(c) does not include—
 - “(i) the cost of land, plant, or machinery:
 - “(ii) expenditure referred to in **section DU 9(1)(b) to (d)**: 15
 - “(iii) residual expenditure.

“Meaning of mining prospecting information

- “(2) **Mining prospecting information** means geological, geophysical, or technical information—
 - “(a) that is about the presence, absence, extent, or volume of listed industrial minerals in an area; or 20
 - “(b) that is likely to assist in determining the presence, absence, extent, or volume of listed industrial minerals in an area.
- “Defined in this Act: land, listed industrial mineral, mineral miner, mining prospecting expenditure, mining prospecting information, residual expenditure 25

“DU 11 Meaning of mining exploration expenditure
Mining exploration expenditure—

- “(a) means expenditure that a mineral miner incurs in exploring or searching in New Zealand for a listed industrial mineral; and 30
- “(b) includes expenditure that the mineral miner incurs directly in relation to—
 - “(i) acquiring an exploration right or permit under the Crown Minerals Act 1991: 35
 - “(ii) geological mapping and geophysical surveys:
 - “(iii) systematic searches for areas containing listed industrial minerals:

- “(iv) searching by drilling in areas containing listed industrial minerals:
- “(v) searching for ore containing a listed industrial mineral within or in the vicinity of an ore body by crosscuts, drilling, drives, rises, shafts, or winzes; and 5
- “(c) does not include—
 - “(i) the cost of land, plant, or machinery:
 - “(ii) expenditure referred to in **section DU 9(1)(a), (c), and (d)**: 10
 - “(iii) residual expenditure.

“Defined in this Act: land, listed industrial mineral, mineral miner, mining exploration expenditure, residual expenditure

“**DU 12 Meaning of mining development expenditure**

“*Meaning of mining development expenditure* 15

“(1) **Mining development expenditure** means—

- “(a) expenditure that a mineral miner incurs in preparing a permit area for their mining operations or associated mining operations:
- “(b) expenditure on operations that are carried on by a mineral miner on a permit area in New Zealand for the purpose of deriving income and consist of—
 - “(i) mining for 1 or more listed industrial mineral; or
 - “(ii) performing work directly related to mining for 1 or more listed industrial mineral; or 25
 - “(iii) undertaking earthworks, including tailing dams, that are necessary for the working of the mine.

“*Inclusions*

“(2) **Mining development expenditure** includes expenditure that the mineral miner incurs directly in relation to the permit area in— 30

- “(a) acquiring a mining right or permit under the Crown Minerals Act 1991 for their mining operations or associated mining operations:
- “(b) obtaining required resource consents for their mining operations or associated mining operations: 35
- “(c) establishing mine infrastructure on any of the following:

- “(i) plant or machinery, including vehicles or vessels:
 - “(ii) production equipment or facilities:
 - “(iii) storage facilities:
 - “(d) providing, or contributing to the cost of providing, communication equipment, fuel, light, power, or water in relation to their mining operations or associated mining operations in the permit area. 5
- “Exclusions*
- “(3) **Mining development expenditure** does not include— 10
 - “(a) the cost of land:
 - “(ab) operational expenditure:
 - “(b) expenditure on property acquired after the start of commercial production from the permit area that has an estimated useful life that does not depend on the remaining assumed life of the mine: 15
 - “(c) expenditure referred to in **section DU 9(1)(a), (b), and (d)**:
 - “(d) residual expenditure.
- “Meaning of operational expenditure*
- “(4) For the purposes of this section and **section IS 2(1)** (Treatment of net losses resulting from certain expenditure), **operational expenditure** means expenditure that— 20
 - “(a) is incurred in operations carried on by a mineral miner in a mining permit area; and
 - “(b) is incurred after the start of commercial production from the mining permit area; and 25
 - “(c) does not create an asset that has an estimated useful life of more than 1 year.
- “Defined in this Act: associated mining operations, commercial production, estimated useful life, income, land, listed industrial mineral, mineral miner, mining development expenditure, mining operations, New Zealand, operational expenditure, permit area, residual expenditure 30
- “DU 13 Meaning of mining rehabilitation expenditure**
- Mining rehabilitation expenditure—**
- “(a) **means—** 35
 - “(i) expenditure that a mineral miner incurs in New Zealand directly in relation to the rehabilitation

- of land that is the permit area of their mining operations or associated mining operations; and
- “(ii) the rehabilitation is carried out in accordance with the mineral miner’s permit requirements or through an obligation of the mineral miner under the Resource Management Act 1991 or regulations made under that Act; and 5
- “(a) means expenditure that a mineral miner incurs in New Zealand directly in relation to rehabilitation of land that is the permit area of their mining operations or associated mining operations carried out as a result of— 10
- “(i) the mineral miner’s permit requirements;
- “(ii) the requirements of an access arrangement issued under the Crown Minerals Act 1991 or regulations made under that Act; 15
- “(iii) an obligation of the mineral miner under the Resource Management Act 1991 or regulations made under that Act;
- “(iv) a concession under the Conservation Act 1987;
- “(v) an authority under the Historic Places Act 1993; 20
- and
- “(b) includes an amount that the mineral miner pays to restore, or towards restoring, the area of their operations either during or after those operations; and
- “(c) does not include— 25
- “(i) the cost of land:
- “(ii) expenditure referred to in **section DU 9(1)(a) to (c)**:
- “(iii) residual expenditure.
- “Defined in this Act: amount, associated mining operations, land, mineral miner, mining operations, New Zealand, pay, permit area, residual expenditure”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 36 Section DW 4 amended (Deduction for general insurance outstanding claims reserve) 35**
- (1) After section DW 4(4), insert:

“Contracts transferred to insurer

“(4B) If a general insurance contract (the **contract**) is transferred by a non-resident to a New Zealand resident insurer (the **insurer**), the amount of the item opening outstanding claims reserve under subsection (4) for the contract is the amount that the closing outstanding claims reserve for the contract would be for the non-resident if the non-resident were a New Zealand resident. 5

“(4B) If a person (the **transferor**) transfers a general insurance contract (the **contract**) to the insurer by a transfer to which **section ED 3(1B)** (Part-year tax calculations for transfers: general insurance OCR) applies, the amount of the item opening outstanding claims reserve for the contract under subsection (4) for the insurer is the amount calculated using the formula—
unreported claim events + reported claims unpaid + risk margin. 10

“Definition of items in formula in subsection (4B) 15

“(4C) In the formula in **subsection (4B)**,—

“(a) **unreported claim events** is the actuarially determined estimate of the present value of claims, not reported to the transferor before the transfer, for events occurring before the transfer,— 20

“(i) taking into account the probability of the claims being paid and the future expenses for administering the claims; and

“(ii) after subtracting the present value of relevant reinsurance claims of the insurer: 25

“(b) **reported claims unpaid** is the actuarially determined estimate of the present value of the claims reported to the transferor before the transfer and not paid before the transfer,—

“(i) taking into account the probability of the claims being paid and the future expenses for administering the claims; and

“(ii) after subtracting the present value of relevant reinsurance claims of the insurer: 30

“(c) **risk margin** is the appropriate margin for claims described in **paragraph (a) or (b)**, to the extent to which the margin— 35

- “(i) is actuarially determined; and
“(ii) reflects the uncertainty of the estimates arising from the use of the relevant best estimate assumptions; and
“(iii) is not already included in the risk components of the claims.” 5
- (2) In section DW 4, list of defined terms, insert “New Zealand resident” and “non-resident”.
- (2) In section DW 4, list of defined terms, insert “actuarially determined”, “best estimate assumptions”, “general insurance”, “New Zealand resident”, and “non-resident”. 10
- 37 Section DZ 12 repealed (Mineral mining: 1954–2005)**
Repeal section DZ 12.
- 37BA Section DZ 20 replaced (Expenditure incurred while income-earning activity interrupted by Canterbury earthquake)** 15
- (1) Replace section DZ 20 with:
“DZ 20 Expenditure incurred while income-earning activity interrupted by Canterbury earthquake)
- “When this section applies 20
- “(1) This section applies for a person and an income year (the **current year**) before the 2019–20 income year when—
- “(a) the person has an income-earning activity in greater Christchurch (as defined in section 4 of the Canterbury Earthquake Recovery Act 2011) immediately before a Canterbury earthquake (as defined in that section); and 25
- “(b) the activity is interrupted for a period (the **period of interruption**) as a result of the Canterbury earthquake; and
- “(c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and 30
- “(d) the interruption expenditure does not meet the requirements of the general permission for the person and the 35

- income-earning activity but would do so but for the interruption; and
- “(e) the person resumes the income-earning activity in an income year (the **resumption year**) before the 2019–20 income year. 5
- “Deduction for interruption expenditure*
- “(2) The person is allowed a deduction for the interruption expenditure.
- “Timing of deduction*
- “(3) The deduction is allocated to the resumption year. 10
- “Link with subpart DA*
- “(4) This section supplements the general permission; the general limitations still apply.
- “Defined in this Act: deduction, general limitation, general permission, income, income year, loss”.* 15
- (2) **Subsection (1)** applies for the 2016–17 and later income years.
- 37B Section EA 2 amended (Other revenue account property)**
- After section EA 2(1)(f), insert:
- “(fb) property that arises as a result of mining development expenditure or mining exploration expenditure to which **sections EJ 20B to EJ 20E** (which relate to mineral mining) apply:”. 20
- 37C Section EA 3 amended (Prepayments)**
- After section EA 3(2)(g), insert: 25
- “(gb) property that arises as a result of mining development expenditure or mining exploration expenditure to which **sections EJ 20B to EJ 20E** (which relate to mineral mining) apply:”.
- 37D Section ED 3 amended (Part-year tax calculations for transfers: general insurance OCR)** 30
- (1) Replace section ED 3(1), other than the heading, with:
- “(1) This section applies when a person (the **transferor**) transfers general insurance contracts to another person (the **transferee**)

in an income year and sections CR 4 and DW 4 (which relate to outstanding claims reserves) apply to either or both of the transferor and transferee.”

(2) After **section ED 3(1)**, insert:

“Transfer from non-resident”

5

“(1B) If sections CR 4 and DW 4 apply to the transferee and not to the transferor, the transferee—

“(a) does the calculations that the transferor would be required to perform under this section if sections CR 4 and DW 4 applied to the transferor; and

10

“(b) uses the results of the calculations in the way required under this section for a transferee.”

(3) In section ED 3(2),—

(a) replace “The transferor” with “A transferor to whom sections CR 4 and DW 4 apply”:

15

(b) replace “The transferee” with “A transferee to whom sections CR 4 and DW 4 apply”.

37E Section EE 1 amended (What this subpart does)

In section EE 1(3)(d), replace “and EZ 23B(8) (Property acquired after depreciable property affected by Canterbury earthquakes)” with “EZ 23B, and EZ 23BB (which relate to property, and interests in property, acquired after depreciable property was affected by the Canterbury earthquakes)”.

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37F Section EE 52 amended (Amount of depreciation recovery income when compensation received)

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After section EE 52(3), insert:

“Compensation derived when item no longer owned”

“(4) If, in the absence of this subsection, the person would derive the amount of insurance, indemnity, or compensation after ceasing to own the item, the person is treated as deriving the amount immediately before the person ceases to own the item.”

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37G New heading and sections EJ 20B to EJ 20E inserted

(1) After section EJ 20, insert:

“*Mineral mining*”

“**EJ 20B** Certain mining expenditure spread over assumed life of mine”

“*When this section applies*”

“(1) This section applies for the purposes of **section DU 5B** (Deduction for certain mining expenditure spread over assumed life of mine) when a mineral miner— 5

“(a) incurs an amount of mining development expenditure or mining exploration expenditure as described in that section; and 10

“(b) starts to use the mining permit area to derive income; and

“(c) either does not meet the requirements to allow allocation of the expenditure under **section EJ 20E** or, if they do, they do not choose to allocate the expenditure under that section. 15

“*Spreading rule*”

“(2) The mineral miner is allowed a deduction for an income year that falls within the spreading period referred to in **section EJ 20C** calculated using the formula— 20

$$\text{rate} \times \text{value.}$$

“*Definition of items in formula*”

“(3) The items in the formula are defined in **subsections (4) and (5)**.

“*Rate*”

“(4) **Rate** is— 25

“(a) the straight-line rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in **section EJ 20D(2)**, if the mineral miner chooses to use the straight-line method: 30

“(b) the diminishing value rate set out in schedule 12, column 1 that corresponds to the straight-line rate under **paragraph (a)**, if the mineral miner chooses to use the diminishing value method.

“Value

“(5) Value is—

“(a) the adjusted tax value of the expenditure, if the mineral miner chooses to use the straight-line method:

“(b) the diminished value of the expenditure for the income year, if the mineral miner chooses to use the diminishing value method. 5

“Allocation to mines

“(6) For the purposes of this section, a mineral miner may allocate expenditure for an income year under this section in relation to a mine rather than in relation to a mining permit area, but only if— 10

“(a) the mineral miner uses IFRS rules to prepare their financial statements; and

“(b) the allocation is permitted for the purposes of their statements. 15

“Defined in this Act: adjusted tax value, amount, deduction, diminishing value method, diminishing value rate, financial statements, IFRS, mineral miner, mining development expenditure, mining exploration expenditure, permit area, straight-line method, straight-line rate 20

“EJ 20C Length of spreading period

“When this section applies

“(1) This section applies for the purposes of **section EJ 20B(3)** to determine the length of the spreading period for certain mining expenditure of a mineral miner related to a mining permit area. 25

“Start and end dates

“(2) The spreading period is the number of income years that represents the assumed life of the mine referred to in **section EJ 20D** that comprises the mining permit area,—

“(a) starting from the later of— 30

“(i) the first day of the income year in which the mineral miner’s commercial production of a listed industrial mineral from the mining permit area starts; or

“(ii) the first day of the income year in which the expenditure is incurred; and 35

“(b) ending on the last day of the income year in which the expiry of the assumed life of the mine occurs.

“Defined in this Act: commercial production, income year, listed industrial mineral, mineral miner, permit area

“EJ 20D Measurement of assumed life of mine and application to rate 5

“When this section applies

“(1) This section applies for the purposes of **section EJ 20B(4)(a)** for the item **rate** in the formula that determines the amount of the deduction a mineral miner is allowed for an income year that falls in the spreading period described in **section EJ 20C**. 10

“Formula for straight-line rate

“(2) The formula for the straight-line rate is—

$$\frac{100\%}{\text{assumed life.}}$$

“Definition of item in formula

“(3) In the formula, **assumed life**, for an amount of expenditure and an income year, is the period that the mineral miner chooses that— 15

“(a) is not less than the period that—

“(i) the mineral miner uses for accounting purposes as the amortisation period for the mining permit area; or 20

“(ii) for a mineral miner that is not required to use an amortisation period for their accounts, the mineral miner estimates is a reasonable period for the commercial production of a listed industrial mineral from the mining permit area; and 25

“(b) is not more than 25 years from the later of—

“(i) the date on which commercial production from the mining permit area starts; and

“(ii) that date on which the mineral miner incurs the expenditure relating to the mining permit area. 30

“Reassessment of life of mine

“(4) A mineral miner must reassess the assumed life of the mine for the purposes of this section and **sections DU 12** (Meaning of mining development expenditure) and **EJ 20C**. A reassessment must be made at the end of an income year that falls within the period, and applies from the start of the next income year for all remaining income years in the period in relation to all outstanding expenditure for which no deduction has yet been allowed. 5

“Defined in this Act: commercial production, deduction, income year, listed industrial mineral, mineral miner, permit area, straight-line rate 10

“**EJ 20E Certain mining expenditure spread on basis of units of production**

“When this section applies

“(1) This section applies for the purposes of **section DU 5C** (Deduction for certain mining expenditure spread on basis of units of production) when a mineral miner— 15

“(a) incurs expenditure described in **section DU 5B(1)(a)** (Deduction for certain mining expenditure spread over assumed life of mine) on or in relation to their mining operations or associated mining operations in a mining permit area; and 20

“(b) starts to use the permit area to derive income; and

“(c) either—

“(i) uses IFRS rules to prepare their financial statements; or 25

“(ii) keeps appropriate records that are sufficient to enable the Commissioner to verify the calculations used by the mineral miner; and

“(d) chooses to apply this section in the way described in **subsection (2)**. 30

“Election

“(2) The mineral miner may make an election to apply this section in relation to the permit area in a return of income for an income year that is the first year in which the miner’s commercial production of a listed industrial mineral from the mining permit area starts. The election is irrevocable and applies only to expenditure referred to in **subsection (1)(a)**. 35

“Reserve depletion method

“(3) The deduction for the expenditure incurred by the mineral miner and allocated to an income year is calculated using the formula—

$$\frac{\text{(reserve expenditure — previous expenditure)}}{\text{expenditure}} \times \frac{\text{reserve depletion for the year}}{\text{proven and probable reserves}}$$

“Definition of items in formula

5

“(4) In the formula,—

“(a) **reserve expenditure** is the total mining development expenditure for the permit area for the income year and earlier income years to which this section applies:

“(b) **previous expenditure** is the total expenditure for the permit area that has been allocated to an earlier income year to which this section applied:

“(c) **reserve depletion for the year** is the amount of a listed industrial mineral produced from the permit area for the income year:

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“(d) **proven and probable reserves** is the amount of the proven ore reserves and probable ore reserves of the listed industrial mineral for the permit area as set out in the reserve statement for the area, provided the reserve statement is prepared in accordance with a classification code recognised for the purposes of estimating reserves and resources under the Crown Minerals (Minerals other than Petroleum) Regulations 2007.

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“Appropriate units of measure

“(5) In **subsection (4)(c) and (d)**, the amount must be expressed in an appropriate unit of measure as set out in the mineral miner’s reserve statement, and must be the same measure used in the formula for the items defined in those paragraphs.

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“Mines and mining permit areas

“(6) For the purposes of this section, a mineral miner may allocate expenditure for an income year under this section in relation

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to a mine rather than in relation to a mining permit area, but only if—

“(a) the mineral miner uses IFRS rules to prepare their financial statements; and

“(b) the allocation in relation to the mine is permitted for the purposes of those statements. 5

“Transitional provision for existing mines

“(7) Despite **subsection (2)**, a mineral miner may make an election to apply this section in relation to an existing permit area for the 2014–15 income year. The election is irrevocable and applies to expenditure incurred by the mineral miner in the permit area for the income year and later income years. 10

“Defined in this Act: amount, associated mining operations, commercial production, Commissioner, deduction, financial statements, general permission, IFRS, income, income year, listed industrial mineral, mineral miner, mining development expenditure, mining operations, permit area, return of income”. 15

(2) **Subsection (1)** applies for the 2014–15 and later income years.

38 Section EW 15D amended (IFRS financial reporting method) 20

(1) After section EW 15D(2)(ab), insert:

“(ac) if the financial arrangement is an interest-free loan, no amount is allocated to equity or to profit or loss when the loan is initially entered into, and no interest is allocated subsequent to the initial entry: 25

“(ad) if the financial arrangement is a loan with a fair value (the **loan initial value**) when the loan is initially entered into that, because of the loan’s interest rate, is less than the ~~fair~~face value (the **consideration initial value**) at that time, ~~of the total amount derived or incurred under the loan,~~ then no amount is allocated to equity or to profit or loss, to the extent to which the amount relates solely to the difference, because of interest rates, between the consideration initial value and the loan initial value. Also, no interest is allocated subsequent to the initial entry on account of a movement in the fair value of the loan, to the extent to which the movement relates solely to the difference, because of interest rates, 30 35

between the consideration ~~fair~~initial value and the loan ~~fair~~initial value.”.

- (2) **Subsection (1)** applies for the ~~2013–14~~2014–15 and later income years.

- 39 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)** 5
 In section EX 21(28), replace “Sections BC 7, CU 1 to CU 29, CX 44 to CX 46, CZ 2, CZ 4, DU 1 to DU 12, DZ 12, IS 1 to IS 4” is replaced with “Sections **CU 1 to CU 9, DU 1 to DU 13**, IS 1, and IS 2”. 10

- 40 Section EX 29 amended (Attributing interests in FIFs)**
 (1) Replace section EX 29(3) with:
“Category 2: FIF superannuation interest
 “(3) The second category is a FIF superannuation interest, held as a beneficiary or a member.” 15
 (2) In section EX 29, list of defined terms,—
 (a) insert “FIF superannuation interest”;
 (b) delete “foreign superannuation scheme”.

- 41 Section EX 33 repealed (Exemption for Australian regulated superannuation savings)** 20
 Repeal section EX 33.

- 42 Section EX 42 repealed (New resident’s accrued superannuation entitlement exemption)**
 Repeal section EX 42.

- 43 New section EX 42B inserted (Interests in foreign superannuation scheme other than FIF superannuation interests)** 25

Before section EX 43, insert:
“EX 42B Interests in foreign superannuation scheme other than FIF superannuation interests 30
 A person’s right to benefit from a foreign superannuation scheme as a beneficiary or a member is not an attributing

interest in the foreign superannuation scheme if the right is not a FIF superannuation interest for the person.

“Defined in this Act: attributing interest, FIF superannuation interest, foreign superannuation scheme”.

- 44 Section EY 5 amended (Part-year tax calculations)** 5
- (1A) After section EY 5(3), insert:
“Part-year calculations for transfers: application
- “(3B) Subsections **(3C)** to (5) apply where a life insurer (the **transferor**) transfers life insurance business to another life insurer (the **transferee**) and sections EY 23 to EY 27 apply to either or both of the transferor and transferee. 10
- “Part-year calculations for transfers: when non-resident transferor
- “(3C) If sections EY 23 to EY 27 apply to the transferee but not to the transferor, the transferee— 15
- “(a) does the calculations that would be required under this section for the transferor if sections EY 23 to EY 27 applied to the transferor; and
- “(b) uses the results of the calculations in the way required under this section for a transferee.” 20
- (1AB) In section EY 5(4),—
- (a) replace the first sentence with “A transferor to whom sections EY 23 to EY 27 apply does a part-year calculation immediately before the transfer, as described in subsection (2), for each class of policy in the transferred business, but only for their part-year ending on the day the transfer occurs.”: 25
- (b) in the second sentence, replace “The transferee” with “A transferee to whom sections EY 23 to EY 27 apply”.
- (1) After section EY 5(4), insert: 30
- “Class of policies transferred to insurer
- “(4B) If a class of policies (the **class**) is transferred by a non-resident to a New Zealand resident life insurer (the **insurer**), the opening value of the reserve amounts for the class under sections EY 23 to EY 27 for the insurer is the closing value that the reserve amounts would have for the non-resident if the non-resident were a New Zealand resident. 35

- “(4B) If a class of policies (the **class**) is transferred by a transferor to whom sections EY 23 to EY 27 do not apply to a life insurer (the **insurer**) to whom sections EY 23 to EY 27 apply, the opening value of the reserve amounts for the class under sections EY 23 to EY 27 for the insurer is the closing value that the reserve amounts would have for the transferor if sections EY 23 to EY 27 applied to the transferor.” 5
- (2) In section EY 5, list of defined terms, insert “New Zealand resident”; and “non-resident”.
- 45 Section EY 15 amended (Policyholder base income: non-participation policies)** 10
- (1) In section EY 15(1)(b)(iii), replace “policies.” with “policies; and” and insert:
- “(iv) is not excluded under **subsection (2)** from being policyholder base income.” 15
- (1) Replace section EY 15(1), other than the heading, with:
- “(1) For an income year, a life insurer’s income is included as their policyholder base income if it—
- “(a) relates to life insurance policies that are savings product policies and not profit participation policies; and 20
- “(b) does not relate to life risk components of premiums and claims; and
- “(c) is not a premium; and
- “(d) is included in the amount of policyholder base income calculated under **subsection (2)** or (4).” 25
- (1B) Replace **section EY 15(1)(c)** with:
- “(c) is not a premium, or is a premium relating to income that is treated under **subsection (5)** as not relating to life risk components of premiums and claims; and”.
- (2) In section EY 15(2), replace the words before the formula with “If an amount of investment income meets the requirements of subsection (1), in the absence of **subsection (1)(b)(iv)**; and of section EY 19; in the absence of section EY 19(1)(d), the income is excluded from the life insurer’s policyholder base income to the extent to which it exceeds the amount calculated using the formula—”. 30 35

- (2) In section EY 15(2), replace the words before the formula with “If an amount of income meets the requirements of **subsection (1)(a) to (c)**, the amount of the income that is policyholder base income is calculated using the formula—”.
- (2B) In section EY 15(2), replace the formula with: 5
- $$\text{investment} \times \frac{\text{average surrender value}}{\text{average savings assets}} \pm \text{de minimis amounts.}$$
- (3) In section EY 15(3)(a), replace “the income” with “the investment income”.
- (3) Replace section EY 15(3)(a) with:
- “(a) **investment** is the amount of income that meets the requirements of **subsection (1)(a) to (c)**, other than income included in the item de minimis amounts.” 10
- (3B) After section EY 15(3)(c), insert:
- “(d) **de minimis amounts** is the amount of income meeting the requirements of **subsection (1)(a) to (c)** that would be treated as relating to life risk components of premiums and life reinsurance claims in the absence of subsection (5).” 15
- (3C) In section EY 15(4), replace “for investment income described in subsection (2)” with “for income included in the item investment in the formula in **subsection (2)**”. 20
- (4) **Subsections (1) to (3)(1) and (2)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 25
- 45B Section EY 16 amended (Policyholder base allowable deductions: non-participation policies)** 30
- (1) Replace section EY 16(1), other than the heading, with:
- “(1) For an income year, a life insurer’s deduction is included as their policyholder allowable deduction if it—

- “(a) relates to life insurance policies that are savings product policies and not profit participation policies; and
 - “(b) relates to income meeting the requirements of **section EY 15(1)(a) to (c)**; and
 - “(c) is included in the amount of policyholder base allowable deduction calculated under **subsection (2)**.” 5
 - (2) Replace section EY 16(2), other than the heading, with:
 - “(2) If a deduction meets the requirements of **subsection (1)(a) and (b)**, the amount of the deduction that is policyholder base allowable deduction is calculated using the basis for apportionment in— 10
 - “(a) **section EY 15(2)** and (3) with necessary modifications; or
 - “(b) section EY 15(4) with necessary modifications.”
 - (3) In section EY 16, list of defined terms, delete “premium loading”, “premium loading formula”, “policyholder base income”, and “shareholder base allowable deduction”. 15
 - (4) **Subsections (1) and (2)** apply—
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies:
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 20 25
- 46 Section EY 17 amended (Policyholder base income: profit participation policies)**
- (1) In section EY 17(2)(c), replace “present value (net)”, in each place where it appears, with “present value (actuarial net)”.
 - (1) In section EY 17(2)(c),— 30
 - (a) replace “present value (net)” with “value” in each place where it appears:
 - (b) replace “future bonus declarations” with “their portions of the future profits” in each place where it appears.
 - (2) In section EY 17, list of defined terms,— 35
 - (a) insert “present value (actuarial net)”:
 - (b) delete “present value (net)”.

- (2) In section EY 17, list of defined terms, delete “present value (net)”.
- (3) **Subsection (1)** applies—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.
- 47 Section EY 19 amended (Shareholder base income: non-participation policies)**
- (1) In section EY 19(1)(a), replace “paragraphs (b) to (d)” with “paragraphs (b) to **(db)**”.
- (2) In section EY 19(1)(d), replace “investment income” with “income meeting the requirements of **section EY 15(1)(a) to (c)**”.
- (3) After section EY 19(1)(d), insert:
“(db) is income relating to annuities that would meet the requirements of **section EY 15(1)(a) to (c)** if the annuities were treated as being savings product policies.”.
- (4) In section EY 19(3), replace “EY 23 to EY 29” with “EY 23 to EY 27”.
- (5) **Subsections (1) to (3)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.
- 48 Section EY 20 amended (Shareholder base allowable deductions: non-participation policies)**
- (1) Replace section EY 20(1)(d) with—
“(d) is a deduction that—

- “(i) relates to income that is included in the item investment in the formula in **section EY 15(2)** or meets the requirements of **section EY 19(1)(db)**; and
- “(ii) is not included in the life insurer’s policyholder base allowable deduction under section EY 16:”. 5
- (2) In section EY 20(2), replace “EY 23 to EY 29” with “EY 23 to EY 27”.
- (3) **Subsection (1) applies—**
- (a) on and after 1 July 2010, unless **paragraph (b)** applies: 10
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 15
- 49 Section EY 21 amended (Shareholder base income: profit participation policies)**
- (1) In section EY 21(2)(c), replace “present value (net)” with “present value (actuarial net)” in each place where it appears. 20
- (1) In section EY 21(2)(c),—
- (a) replace “present value (net)” with “value” in each place where it appears:
- (b) replace “future bonus declarations” with “their portions of the future profits” in each place where it appears. 25
- (2) In section EY 21, list of defined terms,—
- (a) insert “present value (actuarial net)”:
- (b) delete “present value (net)”.
- (2) In section EY 21, list of defined terms, delete “present value (net)”. 30
- (3) **Subsection (1) applies—**
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a 35

return of income for the tax year corresponding to the first relevant income year.

- 50 Section EY 24 amended (Outstanding claims reserving amount: non-participation policies not annuities)**
- (1) In section EY 24(4)(a),— 5
- (a) replace “present values (gross)” with “present values (risk-free gross)”;
- (b) replace “present value (gross)” with “present value (risk-free gross)”.
- (2) In section EY 24(4)(b), replace “present values (gross)” with “present values (risk-free gross)” in each place where it appears. 10
- (3) In section EY 24, list of defined terms,—
- (a) delete “present value (gross)”;
- (b) insert “present value (risk-free gross)”. 15
- (4) **Subsections (1) and (2)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies;
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 20
- 51 Section EY 28 amended (Shareholder base other profit: profit participation policies that are existing business)** 25
- (1) In section EY 28(5)(b), replace “present value (net)” with “present value (risk-free net)”.
- (2) In section EY 28(5)(d), replace “present value (net)” with “present value (risk-free net)”.
- (3) In section EY 28(6), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 30
- (4) In section EY 28, list of defined terms,—
- (a) delete “present value (net)”;
- (b) insert “present value (risk-free net)”.
- (5) **Subsections (1) to (3)** apply— 35
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:

- (b) for an income year that includes 1 July 2010 and later income years; if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 5

52 Section EY 29 amended (Shareholder base other profit: profit participation policies that are new business)

- (1) In section EY 29(6)(b), replace “present value (net)” with “present value (risk-free net)”. 10
- (2) In section EY 29(6)(d), replace “present value (net)” with “present value (risk-free net)”. 10
- (3) In section EY 29(8), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 10
- (4) In section EY 29, list of defined terms,— 15
 - (a) delete “present value (net)”.
 - (b) insert “present value (risk-free net)”.
- (5) **Subsections (1) to (3)** apply— 15
 - (a) on and after 1 July 2010; unless **paragraph (b)** applies: 20
 - (b) for an income year that includes 1 July 2010 and later income years; if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 25

52B Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)

- (1) Replace section EZ 23B(1) and (2) with: 30
 - “When this section applies
 - “(1) This section applies for a person and an income year (the current year) before the 2019–20 income year when the person,—
 - “(a) in or before the current year, receives insurance or compensation (the earthquake compensation) for items of 35

- depreciable property (the **affected property**), each of which is—
- “(i) not depreciable intangible property; and
 - “(ii) included in 1 of the categories (an **affected class**) of the person’s depreciable property referred to in **subsection (10)(b)**; and 5
 - “(iii) included in an affected class that is not linked with a replacement interest under **section EZ 23BB**; and
- “(b) is entitled to the earthquake compensation because each item of the affected property, as a result of a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, is affected by— 10
- “(i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or 15
 - “(ii) a disposal and reacquisition under section EZ 23C or **EZ 70**; and
- “(c) would have, in the absence of this section, from the earthquake compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and 20
- “(d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in **paragraph (c)** by an amount (the **excess recovery**); and 25
- “(e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of subsection (7); and 30
- “(f) gives written notice to the Commissioner under subsection (9)— 35
- “(i) specifying the affected property and affected class; and

“(ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class.

“Suspended recovery income

“(2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after— 5

“(a) adjustment under subsections (3) and (6) for an earlier income year; and 10

“(b) attribution to an earlier income year by **subsection (8)**.

“Depreciation recovery income

“(2B) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by **subsection (8)**.” 15

(2) In section EZ 23B(3),—

(a) in the words before paragraph (a), insert “an affected class of” before “affected property”:

(b) in paragraph (b), replace “property” with “class”. 20

(3) In section EZ 23B(4),—

(a) in the words before paragraph (a), insert “an affected class of” before “affected property”:

(b) in paragraph (a), replace “the affected property” with “the affected class” in each place where it appears. 25

(4) In section EZ 23B(5)(a)(i), replace “the affected property” with “the affected class” in each place where it appears.

(5) In section EZ 23B(6)—

(a) in the words before paragraph (a), insert “an affected class of” before “affected property”: 30

(b) in paragraph (a)(ii), replace “; and” with “; or”:

(c) in paragraph (b), replace “property” with “class”.

(6) Repeal section EZ 23B(7)(a) and (b).

(7) Replace section EZ 23B(8) with:

“Attribution of suspended recovery income to income year: other events

- “(8) The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class— 5
- “(a) at the end of the current year, if that year is the 2018–19 income year and neither of **paragraphs (b) and (c)** apply earlier; or
- “(b) when in the current year the person decides not to acquire more replacement property, if neither of **paragraphs (a) and (c)** apply earlier; or 10
- “(c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of **paragraphs (a) and (b)** apply earlier.”
- (8) After section EZ 23B(11), insert: 15
- “Removal of link by election under section EZ 23BB
- “(11B) If a person in the current year has an amount of suspended recovery income for an affected class of buildings or grandparented structures and has made an election under this section to link replacement property (the **linked property**) to the affected class and has not incurred expenditure in acquiring the linked property,— 20
- “(a) the person may choose to make an election under **section EZ 23BB** linking the affected class with replacement property, which may include linked property: 25
- “(b) a consequence of an election referred to in **paragraph (a)** is that the affected class and the linked property are treated as not being linked under this section for the current year.”
- 52C New section EZ 23BB inserted (Interest in property acquired after depreciable property affected by Canterbury earthquakes) 30
- After section EZ 23B, insert:

**“EZ 23BB Interest in property acquired after depreciable
property affected by Canterbury earthquakes**

“When this section applies

“(1) This section applies for a person and an income year (the **current year) before the 2019–20 income year when the person,—** 5

“(a) in or before the current year, receives insurance or compensation (the **earthquake compensation) for items of depreciable property (the **affected property**), each of which is—** 10

“(i) not depreciable intangible property; and

“(ii) not property for which the person uses the pool method; and

“(iii) included in 1 of the categories (an **affected class) of the person’s depreciable property referred to in **subsection (11)(b)**; and** 15

“(iv) not linked with replacement property under **section EZ 23B or has a link with replacement property that may be removed under **section EZ 23B(11B)**; and** 20

“(b) is entitled to the earthquake compensation because each item of the affected property, as a result of a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, is affected by— 25

“(i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or

“(ii) a disposal and reacquisition under section EZ 23C or **EZ 70; and** 30

“(c) would have, in the absence of this section, from the earthquake compensation for the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and

“(d) has a total amount of depreciation loss under section EE 48 for the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in **paragraph (c) by an amount (the **excess recovery**); and** 35

“(e) has in the current year an interest (a **replacement interest**) in a voting interest in a company (the **owning company**) having the purpose of acquiring depreciable property (the **replacement property**) meeting the requirements of **subsection (6)**; and 5

“(f) holds the voting interest in the owning company or is the settlor of a trust of which the trustee holds the voting interest; and

“(g) gives written notice to the Commissioner under **subsection (10)**. 10

“*Suspended recovery income*

“(2) For a replacement interest, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery, for the affected property with which the replacement interest is linked under **subsections (10) and (11)**, that remains at the beginning of the current year after— 15

“(a) adjustment under **subsections (3), (8), and (9)** for an earlier income year; and

“(b) attribution to an earlier income year by **subsections (8) to (10)**. 20

“*Effect of acquiring interest in replacement property if suspended recovery income from affected class*

“(3) If the person acquires a replacement interest and links the replacement interest with an affected class, the amount calculated using the formula in **subsection (4)**— 25

“(a) is an amount of suspended recovery income for the replacement interest; and

“(b) is a reduction in the amount of the depreciation recovery income for the affected class. 30

“*Suspended recovery income for replacement interest and reduction of suspended recovery income for affected class*

“(4) The amount under **subsection (3)(a) and (b)** for a replacement interest and affected class is—

“(a) zero, if the cost of the affected property in the affected class equals or is less than the total of the fractional interest values for other replacement interests acquired by the person with or before the replacement interest; or 35

“(b) the amount calculated using the formula—

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

“Definition of items in formula

“(5) In the formula,—

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

“(i) the fractional interest value of the replacement interest: 5

“(ii) the amount by which the total cost for the person of the affected property in the affected class exceeds the total amount of the fractional interest values of other replacement interests acquired by the person with or before the replacement interest: 10

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

“(c) **affected cost** is the total cost for the person of the affected property in the affected class. 15

“Requirements for replacement property

“(6) An item of replacement property for a person or owning company must—

“(a) be included in the same category under **subsection (11)(b)** as the affected class with which the person links the item, if the affected class is described in **subsection (11)(b)(i) or (ii)**; and 20

“(b) be located in greater Christchurch as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, if the item is a building or commercial fit-out. 25

“Depreciation recovery income and suspended recovery income

“(7) The amount of suspended recovery income for a person’s replacement interest is not depreciation recovery income for the person arising from the replacement interest unless it is attributed to an income year by **subsections (8) and (9)**. 30

“Depreciation recovery income: disposal of replacement
property by owning company

- “(8) If the owning company in which a person has a replacement in-
terest disposes of the replacement property in an income year,
and **subsection (9)** does not apply earlier,— 5
- “(a) the person has, in the income year for the replacement
interest, an amount of depreciation recovery income
equal to the fractional interest value of the replacement
interest calculated under **subsection (12)**; and
- “(b) the suspended recovery income for the replacement in- 10
terest is reduced by the amount referred to in **para-
graph (a)**.

“Depreciation recovery income: other events

- “(9) The person has, in an income year, an amount of depreci- 15
ation recovery income equal to the suspended recovery income
for a replacement interest and affected property, and the sus-
pended recovery income for the replacement interest and af-
fected property is reduced to zero,—
- “(a) at the end of the income year, if—
- “(i) the income year is the 2018–19 income year; and 20
- “(ii) the owning company does not acquire the re-
placement property relating to the replacement
interest and the affected property before the end
of the income year; and
- “(iii) neither of **paragraphs (b) and (c)** apply earlier; 25
or
- “(b) when in the income year the person disposes of the re-
placement interest, if neither of **paragraphs (a) and
(c)** apply earlier; or
- “(c) when in the income year the person goes into liquidation 30
or becomes bankrupt, if neither of **paragraphs (a) and
(b)** apply earlier.

“Notice of election for affected property

- “(10) A person choosing to rely on this section to suspend in a cur- 35
rent year the recognition of suspended recovery income from
earthquake compensation must give written notice under this
section, or under **section EZ 23B** for years before the current
year, to the Commissioner—

- “(a) for the earliest income year (the **estimate year**) in which the amount of the earthquake compensation for the affected property can be reasonably estimated, by the later of 31 January 2012 and the date on which the return of income is filed for the estimate year; and 5
- “(b) if the current year is after the estimate year,—
- “(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
- “(ii) for the current year, by the date on which the return of income is filed for the current year. 10
- “Contents of notice of election*
- “(11) A notice under **subsection (10)** for the current year must—
- “(a) describe the affected property; and
- “(b) indicate in which of the following categories each item of affected property is included: 15
- “(i) a building or grandparented structure:
- “(ii) commercial fit-out:
- “(iii) depreciable property not referred to in **subparagraphs (i) and (ii)**; and 20
- “(c) indicate which items of affected property were linked with replacement property under **section EZ 23B** before the current year; and
- “(d) give details of each item of replacement property in which a replacement interest is held in the current year, and the affected class to which the person is linking the replacement interest; and 25
- “(e) for each replacement interest held in the current year, give the amount of the expenditure by the owning company on the replacement property, the shareholding of the person’s holding entity in the owning company, and the shareholding of the person in, or the fraction of the trust corpus that has been settled by the person on, the person’s holding entity; and 30
- “(f) for each category of replacement property, give the amount of the suspended recovery income at the end of the current year; and 35

“(g) for each category of replacement property, give the amount of depreciation recovery income for the current year.

“Formula for calculating fractional interest value

“(12) For a person with a replacement interest in replacement property, the fractional interest value of the replacement interest for the purposes of this section is the value calculated using the formula— 5

person’s fractional interest × replacement expenditure.

“Definition of items in formula

“(13) In the formula,— 10

“(a) **person’s fractional interest** is—

“(i) the voting interest of the person in the owning company; or

“(ii) the fraction calculated by multiplying the voting interest in the owning company held by the trustee of a trust of which the person is a settlor by the fraction of the trust corpus that has been settled by the person; 15

“(b) **replacement expenditure** is the amount of the expenditure by the owning company on the replacement property. 20

“Relationship to subpart EE

“(14) This section overrides subpart EE (Depreciation).

“Defined in this Act: adjusted tax value, amount, assessable income, building, commercial building, commercial fit-out, depreciable property, depreciation loss, depreciation recovery income, grandparented structure, income year, liquidation, notice, return of income”. 25

52D Sections EZ 23C to EZ 23G repealed

(1) Repeal sections EZ 23C to EZ 23G.

(2) **Subsection (1)** applies for the 2016–17 and later income years. 30

53 Section EZ 56 amended (Expected death strain formula (life): when annuity payable on death)

(1) In section EZ 56(2), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 35

- (2) In section EZ 56, list of defined terms,—
- (a) delete “present value (net)”;
 - (b) insert “present value (risk-free net)”.
- (3) **Subsection (1)** applies—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies: 5
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 10
- 54 Section EZ 57 amended (Expected death strain formulas: when annuity payable on survival to date or age specified in policy)**
- (1) In section EZ 57(3), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 15
- (2) In section EZ 57, list of defined terms,—
- (a) delete “present value (net)”;
 - (b) insert “present value (risk-free net)”.
- (3) **Subsection (1)** applies— 20
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 25
- 55 New heading and section EZ 6469 inserted (IFRS financial reporting method: interest-free and low-interest loans)**
- (1) After section EZ 6368, insert: 30
- “IFRS financial reporting method*
- “EZ 6469 IFRS financial reporting method: interest-free and low-interest loans**
- “When this section applies*
- “(1) This section applies when— 35

- “(a) **section EW 15D(2)(ac) or (ad)** (IFRS financial reporting method) modifies an IFRS rule so that the person does not allocate interest for a financial arrangement for the 2014–15 income year; and
- “(b) the person has allocated, for the financial arrangement for the ~~2012–13~~2013–14 income year, an amount that the person would not be allowed to allocate if **section EW 15D(2)(ac) and (ad)** applied for the ~~2012–13~~2013–14 income year. 5
- “*Change of spreading method* 10
- “(2) The change from the allocation treatment described in **subsection (1)(b)** (the **old method**) to the non-allocation treatment described in **subsection (1)(a)** (the **new method**) is treated as a change for the 2014–15 income year under section EW 26(2). Sections EW 26(3), (4) and EW 27 apply accordingly, but section EW 26(6) does not apply. 15
- “Defined in this Act: financial arrangement, IFRS, income year, ~~IFRS~~”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 55B** New heading and sections EZ 70 to EZ 74 inserted 20
- (1) After **section EZ 69**, insert:
- “*Damage from Canterbury earthquakes*”
- “EZ 70 Insurance for Canterbury earthquake damage of property: deemed sale and purchase
- “*When this section applies*” 25
- “(1) This section applies for a person and an item of depreciable property and an income year before the 2019–20 income year when—
- “(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and 30
- “(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and
- “(c) the item is assessed by the payer of the insurance or compensation (the **insurer**) as uneconomic to repair; and 35

“(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).

“Deemed sale and repurchase of item

“(2) The person is treated as, on the date of the Canterbury earthquake,—

5

“(a) disposing of the item for the amount of insurance or compensation; and

“(b) reacquiring the item for zero consideration.

“Relationship with section EE 52

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

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“Defined in this Act: amount, depreciable property, income year

“EZ 71 Insurance for Canterbury earthquake damage of property: limit on depreciation recovery income

“When this section applies

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“(1) This section applies for a person and an item of depreciable property and an income year before the 2019–20 income year when—

“(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

20

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

“(c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

25

“(d) **section EZ 70** does not apply for the item.

“Limit on depreciation recovery income under section EE 52

“(2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in the income year an amount of depreciation recovery income equal to the lesser of—

30

“(a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section:

35

“(b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item.

“Relationship with section EE 52

“(3) This section overrides section EE 52.

“Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year 5

“EZ 72 Item treated as available for use if access restricted due to Canterbury earthquake

An item of depreciable property is treated for an income year as being available for use while access to the item is affected by a restriction imposed due to the effects of a Canterbury earthquake (as defined in section 4 of the Canterbury Earthquake Recovery Act 2011), if— 10

“(a) the item was used or available for use immediately before the restriction was imposed; and 15

“(b) the item would be used or available for use in the absence of the restriction; and

“(c) the income year is the 2018–19 or an earlier income year.

“Defined in this Act: depreciable property, income year 20

“EZ 73 Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions

“When this section applies

“(1) This section applies for a person and an item of depreciable property when— 25

“(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

“(b) the damage—
“(i) results in the item being affected by a disposal and reacquisition under **section EZ 70**; or 30

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

“(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and 35

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

“Attribution of income from insurance and disposal

“(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2018–19 income year, the person’s income from the insurance receipt and the consideration derived from the disposal of the item is attributed to the earlier of— 5 10

“(a) the 2018–19 income year:

“(b) the first income year in which—

“(i) the amount of the cost of disposing of the item (the **disposal cost**) is or has been incurred or able to be reasonably estimated; and 15

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

“(iii) the consideration from the disposal of the item is or has been derived or able to be reasonably estimated. 20

“Attribution of deductions

“(3) If the disposal cost is incurred or able to be reasonably estimated before the end of the 2018–19 income year, the person’s deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of— 25

“(a) the 2018–19 income year:

“(b) the first income year in which—

“(i) the disposal cost is or has been incurred or able to be reasonably estimated; and 30

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

“(iii) the consideration from the disposal of the item is or has been derived or able to be reasonably estimated. 35

“Relationship with other sections

- “(4) This section overrides sections EE 1, EE 22, and EE 48 (which state when depreciation loss and depreciation recovery income arise) in relation to the timing of the person’s—
 “(a) income from the insurance receipt and consideration from the disposal of the item: 5
 “(b) deductions for the disposal cost and depreciation loss.
“Defined in this Act: amount, deduction, grandparented structure, income, income year

“EZ 74 Insurance for repairs of Canterbury earthquake damage: optional timing rule for income, deductions 10

“When this section applies

- “(1) This section applies for a person and an item of depreciable property when—
 “(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and 15
 “(b) the damage—
 “(i) does not result in the item being subject to a disposal and reacquisition under **section EZ 70**; 20
 and
 “(ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44);
 and
 “(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and 25
 “(d) the person chooses to apply this section for all items of depreciable property meeting the requirements of **paragraphs (a) to (c)**.

“Attribution of income from insurance 30

- “(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2018–19 income year, the person’s income from the insurance receipt is attributed to the earlier of— 35
 “(a) the 2018–19 income year;
 “(b) the first income year in which—

- “(i) the amount of expenditure for total repair of the damage (the **repair cost**) is or has been incurred or able to be reasonably estimated; and
- “(ii) the insurance receipt is or has been derived or able to be reasonably estimated. 5
- “Attribution of deductions for repairs*
- “(3) If the repair cost is incurred or able to be reasonably estimated before the end of the 2018–19 income year, the person’s deductions for the repair cost are attributed to the earlier of—
- “(a) the 2018–19 income year; 10
- “(b) the first income year in which—
- “(i) the repair cost is or has been incurred or able to be reasonably estimated; and
- “(ii) the insurance receipt is or has been derived or able to be reasonably estimated. 15
- “Relationship with other sections*
- “(4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person’s—
- “(a) income from the insurance receipt; 20
- “(b) deductions for the repair cost.
- “Defined in this Act: amount, deduction, income, income year”.*
- (2) **Subsection (1)** applies for the 2016–17 and later income years.
- 56 Section FB 20 repealed (Mining assets)** 25
 Repeal section FB 20.
- 57 Section FB 21 amended (Depreciable property)**
- (1) Repeal section FB 21(2).
- (2) In section FB 21, list of defined terms, delete “resident mining operator”. 30
- 57B Section FE 41 amended (Treatment of associated persons’ interests)**
- (1) In section FE 41(1), replace “section FE 39” with “section FE 40”.

- (2) In section FE 41(2), replace “sections FE 38 to FE 40” with “section FE 38 or FE 40, as applicable”.
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

- 58 Section FM 31 amended (Eligibility rules) 5**
- (1) Replace section FM 31(2)(b) with:
 - “(b) a mineral miner that is a company.”
- (2) In section FM 31, list of defined terms,—
 - (a) insert “mineral miner”;
 - (b) delete “mining company”. 10

- 59 Section FN 4 amended (Eligibility rules)**
- (1A) Replace section FN 4(1)(d) with:
 - “(d) it is required to maintain an imputation credit account under section OB 1 (General rules for companies with imputation credit accounts) or because of an election under **section OB 2** (Australian companies choosing to have imputation credit accounts); and”. 15
- (1) Replace section FN 4(3)(b) with:
 - “(b) a mineral miner that is a company.”
- (2) In section FN 4, list of defined terms,— 20
 - (a) insert “mineral miner”;
 - (b) delete “mining company”.
- (3) **Subsection (1A)** applies for the 2008–09 and later income years.

- 59B Section FZ 7 replaced (Valuation of group assets: insurance proceeds from Canterbury earthquake) 25**
- Replace section FZ 7 with:
- “FZ 7 Valuation of group assets: insurance proceeds from Canterbury earthquake**
- “*When this section applies*” 30
- (1) This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person if—

- “(a) an asset of the person’s New Zealand group is damaged as a result of a Canterbury earthquake, as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and
- “(b) the asset is impaired or derecognised, under generally accepted accounting practice as a result of the damage; and 5
- “(c) insurance for the damage is recognised at a later date under generally accepted accounting practice.
- “*Optional treatment of insurance* 10
- “(2) The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person’s New Zealand group during the period—
- “(a) beginning with the impairment or derecognition of the asset; and 15
- “(b) ending before the earlier of—
- “(i) the recognition of the amount of insurance;
- “(ii) the beginning of the 2019–20 income year.
- “*Corresponding treatment for worldwide group* 20
- “(3) If a person includes an amount under **subsection (2)** in the value of the total group assets of the person’s New Zealand group for a period, the person must include the amount in the value of the total group assets of the person’s worldwide group for the period. 25
- “*Notice to Commissioner*
- “(4) A person choosing to apply **subsection (2)** for an income year must give to the Commissioner—
- “(a) notice that the person has applied this section for the income year; and 30
- “(b) the amount of income that would arise under section CH 9 (Interest apportionment: excess debt entity) for the income year in the absence of this section; and
- “(c) the amount of income that arises under section CH 9 for the income year after the application of this section; and 35
- “(d) further information required by the Commissioner.
- “*Form and timing of notice*
- “(5) The information required by **subsection (4)** must be given—

“(a) in the form and by the means prescribed by the Commissioner; and

“(b) no later than the later of 30 November 2012 and the day by which the person is required to make a return of income for the corresponding tax year.

5

“Defined in this Act: Commissioner, generally accepted accounting practice, income year, return of income, total group assets”.

60 Heading before section GB 20 replaced (Arrangements involving petroleum mining)

Replace the cross heading before section GB 20 with “*Arrangements involving petroleum and mineral mining*”.

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61 Section GB 20 replaced (Arrangements involving petroleum mining)

(1) Replace section GB 20 with:

“GB 20 Arrangements involving petroleum and mineral mining 15

“When this section applies

“(1) This section applies when—

“(a) an arrangement includes—

“(i) the disposal of a petroleum mining asset or a mineral mining asset (the **mining asset**); or

20

“(ii) the incurring of petroleum exploration expenditure or 1 or more of the classes of mineral mining expenditure referred to in **section DU 9** (Classes of mineral mining expenditure) (the **mining expenditure**):

25

“(iii) a farm-out arrangement; and

“(b) the arrangement has a purpose or effect of tax avoidance.

“Applying section GA 1

“(2) The Commissioner may apply section GA 1 (Commissioner’s power to adjust) to adjust the taxable income of a person affected by the arrangement so as to counteract a tax advantage obtained by the person.

30

“Examples

“(3) Without limiting the generality of **subsection (1)**, arrangements having the effect of tax avoidance include the arrangements described in **subsections (4) to (8)**.

“Person acquiring asset relieved or compensated 5

“(4) An arrangement has the effect of tax avoidance if it involves the disposal of a mining asset and it is probable that, at the time the arrangement is entered into, the person acquiring the mining asset—

“(a) will, through a related arrangement, not have to suffer some or all of the expenditure of acquiring the mining asset; or

“(b) will be effectively compensated in some way for some or all of the expenditure.

“Person incurring expenditure relieved or compensated 15

“(5) An arrangement has the effect of tax avoidance if it involves the incurring of mining expenditure and it is probable that, at the time the arrangement is entered into, the person who is to incur the mining expenditure—

“(a) will, through a related arrangement, not have to suffer some or all of the mining expenditure; or

“(b) will be effectively compensated in some way for some or all of the mining expenditure.

“Farm-in party relieved or compensated

“(6) An arrangement has the effect of tax avoidance if it involves a farm-out arrangement and it is probable that, at the time the arrangement is entered into,—

“(a) the farm-in party will, through a related arrangement, not have to suffer some or all of the farm-in expenditure attributable to the proportionate interest acquired by the farm-in party under the farm-out arrangement; or

“(b) the farm-in party or an associated person will be effectively compensated in some way for some or all of the farm-in expenditure.

“Disposal of asset to associated person for over-value 35

“(7) An arrangement has the effect of tax avoidance if it involves a petroleum miner or mineral miner disposing of a mining asset

to an associated person for a purpose of ensuring that the associated person has a greater deduction than would have been allowed if the asset had been disposed of for its market value.

“Farm-out arrangement with associate person for over-value

- “(8) An arrangement has the effect of tax avoidance if it involves 5
a petroleum miner or a mineral miner entering into a farm-out
arrangement with an associated person for the purpose of en-
suring that the associated person has a greater deduction than
would have been allowed if the farm-out arrangement had
been entered into on substantially the same terms as those on 10
which it would have been entered into with a person who is
not associated.

“Miners operating offshore

- “(9) This section applies, with the necessary modifications to a pet- 15
roleum miner or a mineral miner who undertakes mining op-
erations or that are—
“(a) outside New Zealand and undertaken through a branch
or CFC; and
“(b) substantially the same as the mining activities governed 20
by this Act.

“Treatment of partners

- “(10) For the purposes of this section, a partner is treated as having 25
a share or interest in a petroleum permit, exploration permit,
prospecting permit, or mining permit, as applicable, or other
property of a partnership to the extent of their income interest
in the partnership.

“Disposal of part of asset

- “(11) For the purposes of this section, references to the disposal of 30
an asset apply equally to the disposal of part of an asset.
“Defined in this Act: arrangement, associated person, CFC, deduction, dispose,
farm-in expenditure, farm-out arrangement, mineral miner, mineral mining as-
set, mining permit, New Zealand, petroleum exploration expenditure, petrol-
eum mining asset, petroleum permit, tax avoidance, taxable income”.
- (2) **Subsection (1)** applies for the 2014–15 and later income 35
years.

- 62 Section GB 32 amended (Benefits provided to employee’s associates)**
 Replace section GB 32(2B)(a)(i) with:
 “(i) a look-through company (an LTC):”.
- 63 Section GB 44 amended (Arrangements involving tax credits for families)** 5
 (1) Replace section GB 44(1)(a) with:
 “(a) a person enters into an arrangement:”
 (2) In section GB 44(1)(b), delete “for the claimant”.
 (3) In section GB 44(2), replace “~~t~~The claimant’s” with “A”. 10
- 64 Section GZ 1 amended (Limitation on section GB 20: petroleum mining arrangements)**
 (1) In the heading to section GZ 1, after “petroleum”, insert “and mineral”.
 (2) In section GZ 1, replace “(Arrangements involving petroleum mining)” with “(Arrangements involving petroleum ~~mining~~ and mineral mining)”. 15
- 65 Section HA 4 amended (Conditions applying)**
 (1) In section HA 4(2), replace “Sections HA 11 and HA 12 apply” with “Section HA 11 applies”. 20
 (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 66 Section HC 15 amended (Taxable distributions from non-complying and foreign trusts)**
 (1) After section HC 15(4)(c), insert: 25
 “(cb) a foreign superannuation withdrawal; or
 “(cc) a pension; or”.
 (2) In section HC 15, list of defined terms, insert “foreign superannuation withdrawal”.
- 67 Section HC 27 amended (Who is a settlor?)** 30
 After section HC 27(3B), insert:

- “Contributions to foreign superannuation scheme*
- “(3C) Despite subsection (2), a person who makes a contribution to a trust that is a foreign superannuation scheme is not a settlor of the trust.”
- 68 Section HM 8 amended (Residence in New Zealand)** 5
In section HM 8, in the list of defined terms, insert “foreign investment zero-rate PIE”.
- 69 Section HM 11 amended (Investment types)**
In section HM 11, in the list of defined terms, insert “foreign investment variable-rate PIE” and “foreign investment zero-rate PIE”. 10
- 70 Section HM 12 amended (Income types)**
In section HM 12, in the list of defined terms, insert “foreign investment variable-rate PIE” and “foreign investment zero-rate PIE”. 15
- 71 Section HM 13 amended (Maximum shareholdings in investments)**
In section HM 13, in the list of defined terms, insert “foreign investment variable-rate PIE”.
- 71B Section HM 36 amended (Calculating amounts attributed to investors)** 20
- (1) Replace section HM 36(3)(a) with:
“(a) **percentage** is the percentage of the investor’s entitlement for the day to a distribution by the PIE to the investor class for the period:”. 25
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 72 Section HM 50 amended (Attributing credits to investors)**
- (1) In section HM 50(5)(a), replace “section LP 2(1)(a)” with “section LP 2(1)(c)”. 30
- (2) **Subsection (1)** applies for the 2013–14 and later income years.

- 73 Section HM 55FB amended (Notified foreign investors and tax credits for supplementary dividends)**
- (1) In section HM 55FB(1)(b), replace “section LP 2(1)(a)” with “section LP 2(1)(c)”.
- (2) **Subsection (1)** applies for the 2013–14 and later income 5 years.
- 74 Section HM 72 amended (When elections take effect)**
In section HM 72(1), replace “applicable” with “applicable,”.
- 75 Section HR 8 amended (Transitional residents)**
In section HR 8(1)(a), insert “CF 3,” after “CE 2,”. 10
- 76 Section IA 7 amended (Restrictions relating to ring-fenced tax losses)**
- (1) In section IA 7(7),—
- (a) replace “a mining company, a resident mining operator, or a non-resident mining operator” with “a mineral 15 miner”:
- (ab) replace “mining permit area” with “permit area”:
- (b) replace “mining companies’ tax losses” with “mineral miner’s tax losses”.
- (2) In section IA 7, in the list of defined terms,— 20
- (a) delete “mining company”, “mining permit area”, “non-resident mining operator”, and “resident mining operator”:
- (b) insert “mineral miner”.
- 77 Section ID 1 amended (Treatment of tax losses by consolidated groups)** 25
- (1) In section ID 1(2), replace “mining companies” with “mining companies or mineral miners”.
- (2) In section ID 1, list of defined terms, insert “mineral miner”.
- 78 Heading to subpart IS replaced (Mining companies’ and petroleum ~~miner’s~~miners’ tax losses)** 30
Replace the heading to subpart IS with “Mineral miners’ and petroleum miners’ tax losses”.

- 79 Section IS 1 amended (General treatment of mining company's companies' net losses)**
- (1) Replace the heading to section IS 1 with “**General treatment of mineral miners' net losses**”.
- (2) In section IS 1(1), replace “mining company” with “mineral miner”.
- (3) In section IS 1(2), replace “mining company” with “mineral miner”.
- (4) Replace section IS 1(3), other than the heading, with:
- “(3) For the purposes of this subpart, a **net mining loss** means that part of a net loss of a mineral miner that is described in section IA 7(7) (Restrictions relating to ring-fenced tax losses).”
- (5) In section IS 1, in the list of defined terms,—
- (a) delete “mining company”;
- (b) insert “mineral miner”.
- 80 Section IS 2 amended (Treatment of net losses resulting from certain expenditure)**
- (1) In section IS 2(1), replace “a mining company, or a resident mining operator, or a non-resident mining operator” with “a mineral miner that is a company”.
- (1B) In section IS 2(1)(a), replace “mining exploration expenditure or mining development expenditure” with “mining prospecting expenditure, mining exploration expenditure, mining development expenditure, or operational expenditure”.
- (1C) After section IS 2(1), insert—
- “(1B) This section does not apply to an amount of net mining loss to the extent to which it gives rise to a tax credit under **section LU 1** (Tax credits for mineral miners).”
- (2) In section IS 2(3), replace “the mining company’s” with “the mineral miner’s”.
- (3) In section IS 2, in the list of defined terms,—
- (a) delete “mining company”, “non-resident mining operator” and “resident mining operator”;
- (b) insert “mineral miner”.

81	Section IS 3 repealed (Holding companies' tax losses) Repeal section IS 3.	
82	Section IS 4 repealed (Adjustments in certain circumstances) Repeal section IS 4.	5
83	Section IS 6 amended (When company stops being mining company)	
(1)	In the heading to section IS 6, replace “ mining company ” with “ mineral miner ”.	
(2)	In section IS 6,—	10
(a)	replace “sections IS 1 to IS 5” with “sections IS 1 and IS 2”:	
(b)	replace “mining company” with “mineral miner” in each place where it appears:	
(c)	<u>replace “the company” with “the mineral miner”.</u>	15
(3)	In section IS 6, in the list of defined terms,—	
(a)	delete “mining company”:	
(b)	insert “mineral miner”.	
84	Section IV 1 amended (Supplementary dividend holding companies) In section IV 1(2) replace “IC 5, IS 3, or IS 4” with “or IC 5”.	20
85	Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)	
(1)	After section LA 6(1) (i) , insert: “(g) section LU 1 (Tax credits for mineral miners).”	25
(2)	Subsection (1) applies for the 2014–15 and later income years.	
85B	<u>Section LD 3 amended (Meaning of charitable or other public benefit gift)</u> <u>In section LD 3(1)(a), replace “gift” with “monetary gift”.</u>	30

86 New section LE 8B inserted (Dividends from certain FIF interests)

After section LE 8, insert:

“LE 8B Dividends from certain FIF interests

“When this section applies 5

- “(1) This section applies when a person has assessable income for the purposes of section LE 1 because section LE 1(4B) applies (the **LE 1(4B) income**), and the LE 1(4B) income includes an imputation credit.

“Tax credit limited 10

- “(2) The person’s tax credit for the imputation credit is limited to the lesser of the imputation credit and the following amount:

$$\text{imputation ratio} \times \text{FIF income.}$$

“Definition of items in formula

- “(3) In the formula,—

“(a) **imputation ratio** is the imputation ratio ~~given~~ 15
~~by referred to in~~ section OB 60 (Imputation credits attached to dividends) if the relevant amount of LE 1(4B) income is treated as a dividend, and the imputation credit is attached to it.

“(b) **FIF income** is the person’s FIF income for the income 20
year in which the imputation credit is received, to the extent to which the FIF income is for the attributing interest for which the imputation credit is received.

“Defined in this Act: assessable income, attributing interest, dividend, FIF income, imputation credit, imputation ratio, income year, tax credit”. 25

87 Section ~~LR 1~~ Subpart ~~LR~~ repealed (Tax credits for policyholder income)

- (1) Repeal ~~section LR 1~~ subpart LR.
(2) **Subsection (1)** applies for the 2014–15 and later income 30
years.

88 New subpart LU inserted (Tax credits for mineral miners)

- (1) After section LS 4, insert:

“Subpart LU—Tax credits for mineral
miners

“LU 1 Tax credits for mineral miners

“*When this section applies*

“(1) This section applies for an income year when— 5

“(a) either—

“(i) a mineral miner incurs an amount of mining re-
habilitation expenditure in relation to a permit
area; or

“(ii) a mineral miner derives an amount under **sec-
tion CU 2** (Treatment of mining land) from the
disposal of land or an interest in land in a permit
area; and the amount the mineral miner derives
from the disposal is less than the consideration
that the mineral miner paid to acquire the land or
interest in land; and 10 15

“(b) after taking into account the amounts referred to in
paragraph (a)(i) and (ii), the mineral miner has a tax
loss for the corresponding tax year.

“(1) This section applies for an income year when— 20

“(a) either—

“(i) a mineral miner incurs an amount of mining re-
habilitation expenditure in relation to a mining
permit area; or

“(ii) a mineral miner derives an amount under **sec-
tion CU 2** (Treatment of mining land) from the
disposal of land or an interest in land in a mining
permit area, and the amount the mineral miner
derives from the disposal is less than the consid-
eration that the mineral miner paid to acquire the 25 30

“(iii) a mineral miner incurs an amount of mining de-
velopment expenditure in relation to a mining
permit area for which the mining permit has been
relinquished, has expired, has been revoked or
surrendered, as those terms are used in the Crown
Minerals Act 1991, and the miner has no existing
privilege for the permit area; and 35

- “(b) the mineral miner has a net mining loss for the mining permit area for the income year that is greater than the net income of the mineral miner for the income year from all other sources (the difference being the excess amount), calculated as follows: 5
- “(i) the mineral miner’s net mining loss is treated as if their only income were income derived from the mining permit area:
- “(ii) the net income of the mineral miner from other sources is treated as if there were no income from the mining permit area. 10
- “Amount of tax credit*
- “Tax credit*
- “(2) The mineral miner has a tax credit for the tax year corresponding to the income year for an amount calculated using the formula— 15
- expenditure or loss × tax rate.
- “Definition of items in formula*
- “(3) In the formula,—
- “(a) expenditure or loss is the lesser of— 20
- “(i) the sum of the amounts referred to in **subsection (1)(a)(i) and (ii)**:
- “(ii) the mineral miner’s tax loss for the corresponding tax year:
- “(a) expenditure or loss is the excess amount referred to in **subsection (1)(b)** to the extent to which it consists of the amounts referred to in **subsection (1)(a)(i) to (iii)**: 25
- “(b) tax rate is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).
- “Maximum amount* 30
- “(4) Despite **subsection (2)**, the amount of the tax credit must be no more than the income tax liability that the mineral miner has or had in relation to the permit area for all income years for which the miner derived income from the permit area:
- “(4) Despite **subsection (2)**, the maximum amount of the credit must not be more than the lesser of— 35

- “(a) the result of the formula; and
- “(b) the amount of income tax paid by the mineral miner on net mining income derived for all earlier tax years to the extent to which it relates to the mining permit area, calculated on a year-by-year basis and aggregated. 5

“Treatment of trustees

- “(4B) For the purposes of **subsection (4)**, if the mineral miner is a trustee of a trust, the amount of tax paid for each earlier tax year is determined—
- “(a) first, by reference to the amount of income tax paid under the obligations of a trustee under section HC 32 (Liability of trustee as agent); and 10
- “(b) secondly, by reference to the amount of tax paid on trustee income; and
- “(c) calculated on a year-by-year basis and aggregated. 15

“Treatment of individuals

- “(4C) For the purposes of **subsection (4)**, if the mineral miner is an individual, the amount of tax paid for earlier tax years is calculated on a year-by-year basis and aggregated, as if their only income were income derived from the mining permit area. 20

“Calculated on a year-by-year basis

- “(4D) In **subsections (4)(b), (4B)(c) and (4C)(a)**, a reference to a calculation on a year-by-year basis refers to a calculation starting with the immediately preceding tax year and working backwards to earlier tax years until the amount of tax paid is equal to or more than the amount referred to in **subsection (4)(a)**. 25

“Treatment of tax loss

- “(5) To the extent to which the mineral miner has a tax credit under this section, the amount of the ~~tax~~ net mining loss giving rise to the credit does not form part of either a tax loss component or a net mining loss for the mineral miner. 30

“Nature of tax credit

- “(6) The tax credit is available for use under section LA 6(2) (Remaining refundable credits: PAYE, RWT, and certain other items). 35

“Relationship with other sections

- “(7) **Subsection (5)** overrides sections IA 2 and IA 7 (which relate to losses generally) and IS 1, IS 2, and IS 6 (which relate to tax losses for mineral mining). 5
- “Defined in this Act: amount, income, ~~income tax~~, ~~income tax liability~~, income year, interest, land, mineral miner, mining development expenditure, mining rehabilitation expenditure, net mining income, net mining loss, pay, permit area, tax credit, tax loss, tax loss component, tax year”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 10
- 89 Section MA 8 amended (Some definitions for family scheme)**
- (1) In section MA 8, in the definition of **family scheme income**, replace “an amount calculated under subpart MB (Adjustment of net income for family scheme)” with “the amount, described in section MB 1 (Adjustments for calculation of family scheme income), based on a person’s net income and adjusted as provided by subpart MB (Adjustment of net income for family scheme),”. 15
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 20
- 90 Section MB 1 amended (Adjustments for calculation of family scheme income)**
- (1) Replace the heading of section MB 1(1) and the words before the paragraphs in MB 1(1) with: 25
- “Family scheme income: derivation*
- “(1) The calculation of an entitlement and tax credit under the family scheme is based on a person’s family scheme income. A person’s family scheme income is an amount based on their net income, and is adjusted as provided by this subpart. The following paragraphs apply in relation to assessable income derived by the person in a relationship period in an income year:” 30
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 35

91 Section MB 4 replaced (Family scheme income of major shareholders in close companies)

(1) Replace section MB 4 with:

“MB 4 Family scheme income of major shareholders in close companies

5

“When this section applies

“(1) This section applies for the purposes of determining the amount that is included in the family scheme income of a person for an income year when the person is a major shareholder in a close company on the last day of the company’s balance date for financial purposes:

10

“Income amount

“(2) The amount included in the person’s family scheme income is the greater of zero and the amount given by the formula in **subsection (3)**:

15

“Formula

“(3) For the purposes of **subsection (2)** the amount is given by the following formula:

$$\frac{\text{person's shares} + \text{attributed shares}}{\text{company's shares}} \times (\text{company's income} - \text{dividends}).$$

“Formula: attributed shares

“(4) For the purposes of the formula in **subsection (3)**, the item **attributed shares** is given by the following formula:

20

$$\frac{\text{dependent child shares}}{\text{relevant major shareholders.}}$$

“Definition of items in formulas

“(5) In the formulas in **subsections (3) and (4)**,

“(a) **person’s shares** is the number of shares issued by the company and held by the person, excluding fixed-rate shares, on the last day of the company’s accounting year:

25

“(b) **attributed shares** is the amount given by the formula in **subsection (4)**:

- “(c) **company’s shares** is the number of shares issued by the company, excluding fixed rate shares, on the last day of the company’s accounting year:
- “(d) **company’s income** is the net income of the company for the company’s accounting year: 5
- “(e) **dividends** is the total dividends paid by the company for the company’s accounting year:
- “(f) **dependent child shares** is the number of shares issued by the company and held by dependent children (the **dependent children**) of the person or of the person’s spouse, civil union partner, or de facto partner, excluding fixed rate shares, on the last day of the company’s accounting year: 10
- “(g) **relevant major shareholders** is the total number of the following people who are major shareholders of the company on the last day of the company’s accounting year: 15
- “(i) the person:
- “(ii) the person’s spouse, civil union partner, or de facto partner: 20
- “(iii) principal caregivers of the dependent children, unless described in **subparagraphs (i) and (ii)**:
- “Defined in this Act: accounting year, amount, civil union partner, close company, de facto partner, dependent child, dividend, family scheme income, income year, major shareholder, net income, share, spouse 25

“MB 4 Family scheme income of major shareholders in close companies

“When this section applies

- “(1) This section applies for the purposes of determining the amount that is included in the family scheme income of a person for an income year when the person is a major shareholder in a close company (the **company**) on the last day of the company’s income year. 30

“Income amount

- “(2) The amount included in the person’s family scheme income is the greater of zero and the amount calculated using the formula in **subsection (3)**. 35

“First formula: family scheme income

“(3) For the purposes of **subsection (2)**, the relevant amount is calculated using the formula—

$$(\text{person's interest} + \text{attributed interest}) \times (\text{income} - \text{dividends}).$$

“Definition of items in formula in subsection (3)

“(4) In the formula in **subsection (3)**,— 5

“(a) **person’s interest** is the percentage voting interests for the company held, on the last day of the company’s income year, by the person:

“(b) **attributed interest** is the amount calculated using the formula in **subsection (5)**: 10

“(c) **income** is the net income of the company for the company’s income year:

“(d) **dividends** is the total dividends paid by the company for the company’s income year.

“Second formula: attributed interest 15

“(5) For the purposes of the item attributed interest in **subsection (4)(b)**, the relevant amount is calculated using the formula—

dependent child interest

relevant major shareholders.

“Definition of items in formula in subsection (5)

“(6) In the formula in **subsection (5)**,—

“(a) **dependent child interest** is the total percentage voting interests for the company held, on the last day of the company’s income year, by— 20

“(i) the person’s dependent children:

“(ii) dependent children of the person’s spouse, civil union partner, or de facto partner: 25

“(b) **relevant major shareholders** is the total number of the following people who are major shareholders of the company on the last day of the company’s income year:

“(i) the person:

“(ii) the person’s spouse, civil union partner, or de facto partner: 30

“(iii) principal caregivers of the dependent children described in **paragraph (a)(i) and (ii)**, but ignor-

ing principal caregivers already counted under
subparagraphs (i) and (ii) of this paragraph.

“Defined in this Act: amount, civil union partner, close company, de facto partner, dependent child, dividend, family scheme income, income year, major shareholder, net income, principal caregiver, share, spouse, voting interest”.

5

- (2) **Subsection (1)** applies for the 2014–15 and later income years.

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

- (1) In section MB 7(4)(d), replace “person’s trust” with “person’s trust who are alive at any time in the income year”.

10

- (2) **Subsection (1)** applies for the 2014–15 and later income years:

- (1) Replace section MB 7(3) and (4) with:

“First formula: family scheme income

15

- “(3) The person’s family scheme income for the income year includes the amount calculated using the formula—

$$\frac{\text{trustee income} + \text{companies income}}{\text{settlor number}}$$

“Definition of items in formula in subsection (3)

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

“(a) **trustee income** is the net income of the trustee of the person’s trust for the income year reduced, to not less than zero, by the amount of the trustee’s income that vests or is paid by the trustee as beneficiary income for the income year:

20

“(b) **companies income** is the greater of zero and the amount given by totalling the amounts calculated by applying the formula in **subsection (5)** to each company in which the trustee of the person’s trust and associated persons hold, on the last day of the income year, voting interests of 50% or more:

25

“(c) **settlor number** is the number of settlors of the person’s trust who are alive at any time in the income year, including the person, for which this section applies.

30

“Second formula: companies income

“(5) For the purposes of the item **companies income** in **subsection (4)(b)**, an amount to be totalled is, for each relevant company, calculated using the formula—

trustee’s interest × (income – dividends).

“Definition of items in formula in subsection (5)

5

“(6) In the formula in **subsection (5)**,—

“(a) **trustee’s interest** is the percentage voting interests for the relevant company held, on the last day of the company’s income year, by the trustee:

“(b) **income** is the net income of the relevant company for the company’s income year: 10

“(c) **dividends** is the total dividends paid by the relevant company for the company’s income year.”

(2) In section MB 7, list of defined terms, delete “market value”, “market value circumstance”, and “market value interest”. 15

(3) **Subsection (1)** applies for the 2014–15 and later income years.

92B Section MB 8 amended (Family scheme income from fringe benefits: controlling shareholders)

(1) Replace section MB 8(1)(a) with: 20

“(a) the person is an employee of a company in which the person and associated person hold, on the last day of the income year, voting interests of 50% or more; and”.

(2) In section MB 8, list of defined terms, delete “market value circumstance” and “market value interest”. 25

(3) **Subsection (1)** applies for the 2014–15 and later income years.

92C Section MB 9 amended (Family scheme income from deposits in main income equalisation accounts)

(1) Replace section MB 9(d) with: 30

“(d) a company in which a trustee referred to in paragraph (c) and associated persons hold, on the last day of the income year, voting interests of 50% or more.”

- (2) In section MB 9, list of defined terms, delete “market value circumstance” and “market value interest”.
- (3) **Subsection (1)** applies for the 2014–15 and later income years.
- 93 Section MC 6 amended (When person does not qualify)** 5
In section MC 6, in the list of defined terms, delete “veteran’s pension”.
- 94 Section MD 1 amended (Abating WFF tax credit)**
Replace section MD 1(3)(d)(i) with:
 “(i) a family credit abatement calculated using the 10
 formula in section MD 13(2); and”.
- 95 Section MD 2 amended (Calculating net contributions to credits)**
Repeal section MD 2(3).
- 96 Section MD 12 amended (Calculation of parental tax credit)** 15
(1) Replace section MD 12(3)(b) with:
 “(b) **days** is the number of days in the parental entitlement period for which the person meets the requirements of section MD 11.” 20
(2) In section MD 12, list of defined terms, delete “civil union partner”, “de facto partner”, “income-tested benefit”, “social assistance payment”, and “spouse”.
(3) **Subsection (1)** applies for the 2014–15 and later income years. 25
- 97 Section MD 13 amended (Calculation of family credit abatement)**
In section MD 13(4), in the words before the paragraphs, delete “fortnightly”.
- 98 Section MD 16 amended (Calculation of parental tax credit abatement)** 30
(1) Replace section MD 16(1)(b) and (c) with:

- “(b) the credit is paid in a lump sum for the tax year of the birth; and
 - “(c) the birth occurs less than 56 days before the end of the tax year; and
 - “(d) a day in an entitlement period is in the parental entitlement period.” 5
- (2) Replace sections MD 16(2) and (3) with:
“Amount of additional abatement
- “(2) An additional amount of abatement for the parental tax credit is calculated for the tax year of the birth using the formula: 10
- daily parental tax credit abatement × extra entitlement days.
- “Definition of items in formula*
- “(3) In the formula,—
- “(a) **daily parental tax credit abatement** is the amount by which the person’s parental tax credit would be reduced by a family credit abatement calculated as if for the person and an entitlement period consisting of— 15
 - “(i) the last day of the last entitlement period in the part of the parental entitlement period in the tax year of the birth, if there is an entitlement period in that part of the parental entitlement period: 20
 - “(ii) the first day of the first entitlement period in the part of the parental entitlement period in the tax year after the tax year of the birth, if **subparagraph (i)** does not apply:
 - “(b) **extra entitlement days** is the number of days, each of which is— 25
 - “(i) in the parental entitlement period; and
 - “(ii) in an entitlement period in the tax year following the tax year of the birth.”
- (3) **Subsection (1)** applies for the 2014–15 and later income years. 30
- 99 Section OB 1 amended (General rules for companies with imputation credit accounts)**
- (1) In section OB 1(1), replace the first sentence with “A company that is resident in New Zealand is a company (an **ICA com-** 35

pany) that must establish and maintain an imputation credit account for a tax year.”

- (2) **Subsection (1)** applies for the 2008–09 and later income years.

99B Section OB 2 amended (Australian companies with imputation credit accounts) 5

- (1) Replace the heading to section OB 2 with “**Australian companies choosing to have imputation credit accounts**”.

- (2) Replace section OB 2(1) with:
“Election to be Australian ICA company” 10

“(1) A company that is resident in Australia may choose, by notifying the Commissioner, to be obliged to establish and maintain an imputation credit account.”

- (3) Replace the heading to section OB 2(3) with “*When electing company becomes Australian ICA company*”.
- 15

(4) In section OB 2(3), replace the words before paragraph (a) with “A company making an election under **subsection (1)** must maintain an imputation credit account from the following date, as applicable:”.

- (5) Replace section OB 2(7)(a) with:
“(a) the company ceases to be resident in Australia or meets a requirement of subsection (2)(a) or (b); or”. 20

(6) **Subsections (1) to (5)** apply for the 2008–09 and later income years.

100 Section OB 47 amended (Debit for policyholder base imputation credits) 25

- (1) Replace section OB 47(1), other than the heading, with:

“(1) An ICA company has an imputation debit for the amount of an imputation credit attached to a dividend derived by the company, to the extent to which it is— 30

- “(a) derived by it as a life insurer; and
“(b) apportioned to their policyholder base; and
“(c) not affected by a debit under section OB 41.”

- (2) **Subsection (1)** applies—
(a) on and after 1 July 2010, unless **paragraph (b)** applies: 35

- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 5

101 Section OP 44 amended (Consolidated ICA debit for policyholder base imputation credits)

- (1) Replace section OP 44(1), other than the heading, with:
 - “(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit attached to a dividend derived by a group company, to the extent to which it is—
 - “(a) derived by a group company that is a life insurer; and
 - “(b) apportioned to that life insurer’s policyholder base; and
 - “(c) not affected by a debit under section OP 42.” 15
- (2) **Subsection (1)** applies—
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies:
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 20

102 Section RD 5 amended (Salary or wages)

- (1) In section RD 5(5B), insert as the subsection heading “*Sum payable after office of Governor-General becomes vacant*”. 25
- (2) In section RD 5, list of defined terms, insert “employee”.

103 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- ~~(2) Repeat the definition of **asset**.~~ 30
- (2) Replace the definition of **asset** with—
 - “**asset**—
 - “(a) is defined in section DG 3 (Meaning of asset for this subpart) for the purposes of subpart DG (Expenditure related to use of certain assets) and sections CC 1(2B) 35

- and CW 8B (which relate to the treatment of certain income):
- “(b) is defined in **section EZ 68** (Definitions) for the purposes of **sections EZ 64 to EZ 67** (which relate to New Zealand Railways Corporation restructure)”. 5
- (3) In the definition of **associated mining operations**, replace “section CU 29 (Other definitions)” with “**section CU 7(2)** (Some definitions)”.
- (4) Replace the definition of **Australian ICA company** with:
 “**Australian ICA company** is a company that must establish and maintain an imputation credit account because of an election under section OB 2 (Australian companies ~~with~~choosing to have imputation credit accounts)”.
- (5) Replace the definition of **commercial production** with:
 “**commercial production**— 15
 “(a) for petroleum mining, means the production in commercial quantities on a continuing basis of petroleum in a state suitable for delivery to a buyer, consumer, processor, refinery, or user:
 “(b) for mineral mining, means the extraction of a listed industrial mineral from a permit area and the production of the mineral in commercial quantities on a continuing basis to a stage at which it is in a saleable form and suitable location for delivery to a buyer, consumer, processor, or user”.” 20
- (5B) Replace the definition of **corpus** with:
 “**corpus** is defined in section HC 4 (Corpus of trust)”.
- (6) ~~In the definition of **dispose**, paragraph (c), replace “non-specified mineral” with “certain minerals”.~~
- (6) In the definition of **dispose**,— 30
 (a) in paragraph (c), replace “non-specified mineral” with “certain minerals”:
 (b) in paragraph (e), delete “petroleum”.
- (7) Replace the definition of **farm-out arrangement** with:
 “**farm-out arrangement**— 35
 “(a) means an arrangement between a petroleum miner or a mineral miner (the **farm-out party**) and a person (the **farm-in party**) under which the farm-in party

agrees that they will incur expenditure in doing work or paying for work done in or for the permit area of the farm-out party's petroleum permit, exploration permit, prospecting permit, or mining permit, as applicable, (the **permit**), after the arrangement is made and, in return, they—

“(i) acquire an interest in the farm-out party's permit:

“(ii) receive a right or option to acquire an interest in the farm-out party's permit:

“(iii) become entitled in another way to acquire an interest in the farm-out party's permit: 10

“(iv) become entitled to a direct or indirect interest in petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit: 15

“(v) become entitled to a direct or indirect interest in the profits, however measured, from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

“(vi) become entitled to a direct or indirect right to reimbursement from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit: 20

“(vii) become entitled to a direct or indirect right to reimbursement from the profits, however measured from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit: 25

“(viii) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit: 30

“(ix) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to the profits, however measured, from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit: 35

- “(b) is defined in section CZ 8(2) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:
- “(c) is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section”.
- (8) In the definition of **FDP rules**, replace paragraph (d) with:
- “(d) section YA 2(5) to (7) (Meaning of income tax varied)”.
- (9) Insert, in the appropriate alphabetical order:
- “**FIF superannuation interest** means, for a person and an income year (the **current year**), an interest held by the person, in a foreign superannuation scheme as a beneficiary or member,—
- “(a) that is an attributing interest for an income year (the **qualifying year**) ending before 1 April 2014; and
- “(b) producing, for the qualifying year, FIF income or loss included by the person in a return of income filed before the day on which the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill** was introduced; and
- “(c) held by the person for the period (the **qualifying period**) from the end of the qualifying year to the beginning of the current year; and
- “(d) for which the person includes all FIF income or loss under the FIF rules in returns of income for the qualifying year and income years after the qualifying period
- “**FIF superannuation interest** means, for a person and an income year (the **current year**), an interest held by the person, in a foreign superannuation scheme as a beneficiary or member, that—
- “(a) the person acquires, or is treated as acquiring, when a resident of New Zealand other than—
- “(i) from a person who acquired the interest when a non-resident; and
- “(ii) by a transaction described in **section CF 3(18)(d)**:
- “(b) the person acquires, or is treated as acquiring, when a non-resident and that—

- “(i) is an attributing interest for an income year (the **qualifying year**) ending before 1 April 2014; and
“(ii) is treated by the person as an attributing interest in a return of income for the qualifying year filed before 20 May 2013; and 5
“(iii) is held by the person for the period (the **qualifying period**) from the end of the qualifying year to the beginning of the current year; and
“(iv) is treated by the person as an attributing interest in returns of income for the income years in the qualifying period”. 10
- (10) Insert, in the appropriate alphabetical order:
“**foreign defined contribution scheme** means a foreign superannuation scheme that operates on the principle of allocating contributions to the scheme on a defined basis to individual members”. 15
- (11) Insert, in the appropriate alphabetical order:
“**foreign superannuation withdrawal** means a benefit for a person from a foreign superannuation scheme to which **section CF 3** (Withdrawals from foreign superannuation scheme) applies”. 20
- (12) In the definition of **holding company**, repeal paragraph (b).
- (13) Replace the definition of **ICA company** with:
“**ICA company** means a company that must establish and maintain an imputation credit account,— 25
“(a) as a New Zealand resident company, under section OB 1 (General rules for companies with imputation credit accounts):
“(b) as an Australian ICA company, because of an election under section OB 2 (Australian companies with choosing to have imputation credit accounts)”. 30
- (14) Repeal the definition of **income from mining**.
- (15) In the definition of **initial treatment**, replace “section CU 29 (Other definitions)” with “**section CU 7(3)** (Some definitions)”. 35
- (16) Insert, in the appropriate alphabetical order:
“**limited-recourse arrangement** is defined in **section DB 31(5B)** (Bad debts) for the purposes of that section”.

- (17) Insert, in the appropriate alphabetical order:
“**listed industrial mineral** is defined in **section CU 8** (Meaning of listed industrial mineral)”.
- (18) In the definition of **loan**, repeal paragraph (c).
- (18B) In the definition of **major shareholder**,— 5
 (a) in paragraph (c), delete “and market value”.
 (b) in paragraph (d), delete “and market value”.
- (19) Insert, in the appropriate alphabetical order:
“**mineral mining asset** is defined in **section CU 9** (Some definitions)” 10
- (20) Repeal the definition of **mining company**.
- (21) In the definition of **mining development expenditure**, replace “section CU 23 (Meaning of mining development expenditure)” with “**section DU 12** (Meaning of mining development expenditure)” 15
- (22) In the definition of **mining exploration expenditure**, replace “section CU 24 (Meaning of mining exploration expenditure)” with “**section DU 11** (Meaning of mining exploration expenditure)”.
- (23) Repeal the definition of **mining holding company**. 20
- (24) In the definition of **mining operations**, replace “section CU 25 (Meaning of mining operations)” with “**section CU 7(1)** (Some definitions)”.
- (25) In the definition of **mining or prospecting right**, replace “section CU 29 (Other definitions)” with “**section CU 9(4)** (Some definitions)” 25
- (26) Repeal the definition of **mining outgoing excess**.
- (27) Replace the definition of **mining permit** with:
“**mining permit** is defined in section 2 of the Crown Minerals Act 1991”. 30
- (28) Repeal the definition of **mining permit area**.
- (29) Insert, in the appropriate alphabetical order:
“**mining prospecting expenditure** is defined in **section DU 10** (Some definitions)”.
- (30) In the definition of **mining prospecting information**, replace “section CU 29 (Other definitions)” with “**section DU 10(2)** (Some definitions)” 35

- (31) Repeal the definition of **mining purposes**.
- (32) Insert, in the appropriate alphabetical order:
“**mining rehabilitation expenditure** is defined in **section DU 13** (Meaning of mining rehabilitation expenditure)”.
- (33) Repeal the definition of **mining share**. 5
- (34) Repeal the definition of **mining venture**.
- (35) In the definition of **net mining loss**, replace “(General treatment of mining companies’ net losses) for the purposes of subpart IS (Mining companies’ and petroleum miners’ tax losses)” with “(General treatment of mineral miners’ net losses) for the purposes of subpart IS (Mineral miners’ and petroleum miners’ tax losses)”. 10
- (36) Repeal the definition of **non-resident mining operator**.
- (37) In the definition of **NZIAS 28**, replace “by the Accounting Standards Review Board” with “or issued under the Financial Reporting Act 1993”. 15
- (38) In the definition of **NZIAS 31**, replace “by the Accounting Standards Review Board” with “or issued under the Financial Reporting Act 1993”.
- (38B) Insert, in the appropriate alphabetical order: 20
“**operational expenditure** is defined in **section DU 12(4)** (Meaning of mining development expenditure) for the purposes of that section and **section IS 2** (Treatment of net losses resulting from certain expenditure)”.
- (39) In the definition of **partnership share**, replace “partner has the partnership it” with “partner has in the partnership”. 25
- (40) Replace the definition of **permit area** with:
“**permit area** means an area of land, and may include more than 1 area, of, as applicable,—
“(a) a petroleum permit: 30
“(b) a mining permit or an existing privilege referred to in paragraphs (a) and (b) of the definition of existing privilege in section 106 of the Crown Minerals Act 1991”.
- (41) Repeal the definition of **prescribed amount**.
- (42) Repeal the definition of **prescribed period**. 35
- (43) Repeal the definition of **prescribed proportion**.
- ~~(44) Insert, in the appropriate alphabetical order:~~

- ~~“present value (actuarial net), for a life insurer, means—~~
- ~~“(a) a present value actuarially determined using a discount rate, net of tax, based on market returns for the asset base and used in the life insurer’s financial statements; but~~ 5
- ~~“(b) face value, if the discount period is less than a year”.~~
- (45) In the definition of **present value (gross)**, replace “**gross**” with “**risk-free gross**”.
- (46) In the definition of **present value (net)**, replace “**net**” with “**risk-free net**”. 10
- (47) Repeal the definition of **reinvestment profit**.
- (48) Repeal the definition of **resident mining operator**.
- (49) In the definition of **residual expenditure**, replace paragraph (b)(i) with:
- “(i) an application fee payable to the Crown for a petroleum permit, exploration permit, mining permit, or prospecting permit; or”.
- (50) In the definition of **schedular income**, repeal paragraph (b).
- (50B) In the definition of **settlement**, replace the words before paragraph (a) with “**settlement—**”. 20
- (50C) In the definition of **settlor**, replace paragraph (a) with: “(a) is defined in section HC 27 (Who is a settlor?)”.
- (51) Repeal the definition of **specified mineral**.
- (51B) In the definition of **superannuation scheme**, paragraph (a)(v), after “natural persons”, insert “other than retirement benefits resembling New Zealand superannuation”.
- (52) **Subsections (4), (13), and (39)** apply for the 2008–09 and later income years.
- (53) **Subsection (8)** applies for income years beginning on or after 1 July 2009. 30
- (54) **Subsections (44), (45), and (46)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies;
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a 35

return of income for the tax year corresponding to the first relevant income year.

(55) **Subsections (5), (7), (18B), and (49)** apply for the 2014–15 and later income years.

104 Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) 5

(1) In schedule 1, part A, clause 1, replace the words before the formula with “To the extent to which a person does not have a basic rate under clauses 2 to 10, the basic rate of income tax for the person on each dollar of the person’s taxable income is calculated using the formula—” 10

(2) **Subsection (1)** applies for the 2011–12 and later income years.

105 Schedule 32 amended (Recipients of charitable or other public benefit gifts) 15

(1) In schedule 32, insert, in the appropriate alphabetical order, “Kailakuri Health Care Project – New Zealand Link”, “Marama Global – Education”, and “Marama Global – Health”.

(2) **Subsection (1)** applies for the 2014–15 and later income years. 20

106 New schedule 33 inserted (Default fractions of foreign superannuation withdrawals)

After schedule 32, insert the schedule 33 in schedule 1 of this Act. 25

107 ~~Deletion~~Removal of redundant headings and readers’ aids

The items in column 2 of schedule 2 are deleted or repealed from the locations given by the corresponding row in column 1 of schedule 2.

Part 3
Amendments to other Acts
Tax Administration Act 1994

- 108 Tax Administration Act 1994**
Sections 109 to 114 amend the Tax Administration Act 1994. 5
- 109 Section 17 amended (Information to be furnished on request of Commissioner)**
- (1) Section 17(2) is repealed.
- (2) **Subsection (1)** applies for the income year after the income year in which the Financial Reporting Act 1993 is repealed, and later income years. 10
- 110 New sections 21B and 21C inserted**
- (1) Before section 22 and after the heading "*Taxpayer's obligations to keep records*", insert: 15
- “21C Preparing financial statements: Orders in Council**
- “(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister of Revenue, prescribe, for the purposes of **section 21B**,—
- “(a) minimum requirements for preparing financial statements: 20
- “(b) classes of taxpayers to whom the minimum requirements apply:
- “(c) classes of companies that are exempt from the minimum requirements. 25
- “(2) Before recommending the making or amending of an Order in Council under this section, the Minister of Revenue must, whether before or after the date on which the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters Act 2013 receives the Royal assent, consult with professional 30
- “(2) Before **section 21C**, as inserted by **subsection (1)**, and after the heading "*Taxpayer's obligations to keep records*", insert:

“21B Preparing financial statements

- “(1) A company must prepare financial statements in accordance with the applicable minimum requirements prescribed in an Order in Council made under **section 21C**, unless the company is of a class specified as exempt from the minimum requirements in an Order in Council made under **section 21C**. 5
- “(2) A taxpayer of a class specified in an Order in Council under **section 21C** must prepare financial statements in accordance with the applicable minimum requirements prescribed in an Order in Council made under **section 21C**. 10
- “(3) If an enactment other than this one provides applicable minimum requirements for preparing financial statements for a company or taxpayer, the company or taxpayer must prepare financial statements using those minimum requirements and **subsection (1) and (2)** do not apply. 15
- “(4) Section 22 applies to keeping and retaining the financial statements.”
- (3) **Subsection (2)** applies for the income year after the income year in which the Financial Reporting Act 1993 is repealed, and later income years. 20

111 Section 22 amended (Keeping of business and other records)

- (1) Before section 22(1)(a), insert:
“(aa) the financial statements required to be prepared by **section 21B**; and”. 25
- (2) **Subsection (1)** applies for the income year after the income year in which the Financial Reporting Act 1993 is repealed, and later income years.

112 Section 24O amended (Certain information required from agricultural, horticultural, or viticultural employers) 30

- (1) In section 24O(4), replace paragraphs (d) to (f) with:
“(d) the gross amount of the payment.”
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

112B Section 83 amended (Disclosure of information for purposes of entitlement card)

- (1) In section 83(2)(e), replace “expected net income” with “expected family scheme income” in each place where it appears.
- (2) In section 83(2)(f), replace “net income” with “family scheme income” in each place where it appears. 5

112C Section 84 amended (Disclosure of information for family support double payment identification)

In section 84, in the heading, replace “family support” with “WFF tax credit”. 10

113 Section 91C amended (Taxation laws in respect of which binding rulings may be made)

- (1) In section 91C(1)(f), words before paragraph (i), replace “paragraphs (a) to (eb)” with “paragraphs (a) to (ee)”.
- (2) In section 91C(1)(f)(i), replace “paragraph (e) or (eb)” with “paragraphs (e) to (ee)”. 15
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

114 Section 108 amended (Time bar for amendment of income tax assessment) 20

- (1) In section 108(1), replace “increase the amount assessed” with “increase the amount assessed or decrease the amount of a net loss”.
- (2) **Subsection (1)** applies for the 2002–03 and later income years. 25

KiwiSaver Act 2006

115 Schedule 1 amended (KiwiSaver scheme rules)

- (1) In the KiwiSaver Act 2006, schedule 1, after ~~clause 14~~ clause 14B, insert:

“14A14C Withdrawal to meet tax liability on foreign superannuation withdrawal 30

- “(1) A member may, on application to the trustees (in the case of a restricted KiwiSaver scheme) or the manager (in the case

of any other KiwiSaver scheme); withdraw an amount for the payment of the member's liability for tax, other than interest or penalties, arising under the Income Tax Act 2007 from the member's withdrawal of an interest in a foreign superannuation scheme and conversion of the interest into an interest in a KiwiSaver scheme. 5

“(1) A member may, on application to the trustees (in the case of a restricted KiwiSaver scheme) or the manager (in the case of any other KiwiSaver scheme), withdraw an amount for the payment of the member's liability for— 10

“(a) tax, other than interest or penalties, arising under the Income Tax Act 2007 from the member's withdrawal of an interest in a foreign superannuation scheme and conversion of the interest into an interest in a KiwiSaver scheme: 15

“(b) repayment obligations arising under the Student Loan Scheme Act 2011 from the member's withdrawal of an interest in a foreign superannuation scheme and conversion of the interest into an interest in a KiwiSaver scheme. 20

“(2) The amount withdrawn may not exceed the lesser of—

“(a) the member's liability for tax:

“(b) the value of the member's accumulation less the amount of the Crown contribution.

“(2) The amount withdrawn under— 25

“(a) **subclause (1)(a)** may not exceed the lesser of—

“(i) the member's liability for tax referred to in that paragraph:

“(ii) the member's liability for terminal tax in the tax year to which the tax relates: 30

“(b) **subclause (1)(b)** may not exceed the member's repayment obligations referred to in that paragraph.

“(2A) An amount withdrawn under **subclause (1)** may not exceed the value at the time of the withdrawal of the member's accumulation less the amount of the Crown contribution. 35

“(3) An application under **subclause (1)** must—

“(a) be made by the member—

- “(i) ~~before 1 April 2016, if the member’s foreign superannuation withdrawal is derived before 1 April 2014; or~~
- “(ii) ~~within 24 months of the member’s foreign superannuation withdrawal, if the withdrawal is derived on or after 1 April 2014; and~~ 5
- “(a) be made within the period of 24 months beginning from the end of the month in which the liability of the member for tax or student loan repayments is assessed; and
- “(b) be in the form required by the trustees or manager (as the case may be); and 10
- “(c) must include a completed statutory declaration giving the relevant details of the foreign superannuation withdrawal, the reinvestment, and the resulting liability of the member for tax under the Income Tax Act 2007; and 15
- “(d) must include any documents and other information that may be required by the trustees or manager (as the case may be) in support of the statutory declaration.
- “(4) The trustees (in the case of a restricted KiwiSaver scheme) or the manager (in the case of any other KiwiSaver scheme) must— 20
- “(a) provide to the Commissioner of Inland Revenue, in a form satisfactory to the Commissioner, the details of any withdrawal made by a member under **subclause (1)**; and 25
- “(b) if payment to a person other than the member is possible, pay to the Commissioner the amount of the withdrawal.”
- (2) In the KiwiSaver Act 2006, schedule 1, clause 17, replace “rules 4 to 14” with “rules 4 to **14C**”. 30

Income Tax Act 2004

- 116 New section CF 3 inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)** 35
- After section CF 2 of the Income Tax Act 2004, insert:

“CF3 Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014

“When this section applies

- “(1) This section applies when a person— 5
- “(a) derives an amount, other than a pension or annuity, as a withdrawal from a foreign superannuation scheme in the period beginning with the beginning of the 2005–06 income year and ending with the end of the 2007–08 income year; and 10
 - “(b) does not include all or part of the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and
 - “(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and 15
 - “(d) chooses to include in a return of income for an income year (the **return year**) ending after 31 March 2014 an amount of assessable income (the **withdrawal income**) as relating to the omitted withdrawal.
 - “(d) chooses to include in a return of income for an income year (the **return year**) that is the 2013–14 or 2014–15 income year an amount of assessable income as relating to all omitted withdrawals from the foreign superannuation scheme. 20
- “Law applying at time of withdrawal overridden 25*
- “(2) ~~In the circumstances described in **subsection (1)**, the provisions of this Act applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal are overridden by **section GZ 21B** (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014) of the Income Tax Act 2007.~~ 30
- “(2) In the circumstances described in **subsection (1)**, the provisions of this Act applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal, and of the person’s interest in the foreign superannuation scheme for the period ending by 31 March 2014 in which the person had the interest, are overridden by **section CZ 21B** 35

(Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014) of the Income Tax Act 2007.

“Defined in this Act: amount, assessable income, income, income year, return of income, superannuation fund”.

5

116B Definitions

In section OB 1, definition of **superannuation scheme**, paragraph (a)(iv), after “natural persons”, insert “other than retirement benefits resembling New Zealand superannuation”.

Income Tax Act 1994

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117 New section CC 4 inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)

After section CC 3 of the Income Tax Act 1994, insert:

“CC 4 Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014

15

“(1) This section applies when a person—

“(a) derives an amount, other than a pension or annuity, as a withdrawal from a foreign superannuation scheme in the period beginning with the 1 January 2000 and ending with the end of the 2004–05 income year; and

20

“(b) does not include all or part of the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and

25

“(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and

“(d) chooses to include in a return of income for an income year (the **return year**) ending after 31 March 2014 an amount of assessable income (the **withdrawal income**) as relating to the omitted withdrawal.

30

“(d) chooses to include in a return of income for an income year (the **return year**) that is the 2013–14 or 2014–15 income year an amount of assessable income as relating to all omitted withdrawals from the foreign superannuation scheme.

35

~~“(2) In the circumstances described in **subsection (1)**, the provisions of this Act applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal are overridden by **section CZ 21B** of the Income Tax Act 2007.~~

“(2) In the circumstances described in **subsection (1)**, the provisions of this Act applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal, and of the person’s interest in the foreign superannuation scheme for the period ending by 31 March 2014 in which the person had the interest, are overridden by **section CZ 21B** (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014) of the Income Tax Act 2007.”

Health Entitlement Cards Regulations 1993

117B Regulation 2 amended (Interpretation) 15

In regulation 2(1) of the Health Entitlement Cards Regulations 1993,—

- (a) in the definition of **family assistance credit**, replace “Part M of the Income Tax Act 2007, excluding any family tax credit” with “subparts MA to MF, and MZ of the Income Tax Act 2007, excluding any minimum family tax credit”;
- (b) in the definition of **family credit income**, replace “net income” with “family scheme income”.

118 Regulation 8 amended (Eligibility for community services cards) 25

In regulation 8(4)(a) of the Health Entitlement Cards Regulations 1993, delete “fortnightly interim”.

Schedule 1

s 106

New schedule 33 inserted

Schedule 33

s CF 3

**Default fractions of foreign
superannuation withdrawals**

5

<i>Column 1</i> schedule year	<i>Column 2</i> schedule year fraction (%)
1	4.76
2	9.45
3	14.06
4	18.60
5	23.07
6	27.47
7	31.80
8	36.06
9	40.26
10	44.39
11	48.45
12	52.45
13	56.39
14	60.27
15	64.08
16	67.84
17	71.53

Schedule 1 **Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

18	75.17
19	78.75
20	82.28
21	85.74
22	89.16
23	92.58
24	95.83
25	99.08
26 or more	100.00

Schedule 2
**Removal of redundant headings and
readers' aids**

s 107

Location in Income Tax Act 2007	Delete / Repeal
After subpart LP	the subpart heading “Subpart LQ—Tax credits of conduit tax relief companies”.
After section OP 77 <u>Table O22</u>	the cross-heading “ <i>CTR debits of consolidated groups</i> ”.
After section RC 35	the heading “ <i>Disaster relief</i> ”.
Section RZ 5D, list of defined terms	the words “provisional tax liability”.

Legislative history

20 May 2013
11 June 2013

Introduction (Bill 112–1)
First reading and referral to Finance and
Expenditure Committee
