Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Stuart Nash

Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2018.

2 Commencement

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

(2) **Sections 46B, 62, and 64B** are treated as coming into force on 1 April 2008.

(2B) **Sections 43C and 46C** are treated as coming into force on 1 July 2008.

(3) **Section 54** is treated as coming into force on 1 July 2010.

(3B) **Section 71C** is treated as coming into force on 1 October 2010.

(4) **Sections 22 and 42** are treated as coming into force on 1 April 2011.

(5) **Sections 84 and 85** are treated as coming into force on 1 April 2012.

(6) **Section 20** is treated as coming into force on 1 April 2013.

(7) **Section 55** is treated as coming into force on 1 April 2015.

(8) **Sections 15(1) and 26(1)** are treated as coming into force on 1 October 2016.

(9) **Section 21** is treated as coming into force on 1 April 2017.

(10) **Sections 73 and 74** are treated as coming into force on 1 July 2017.

(10B) **Section 96** is treated as coming into force on 29 March 2018.

(11) **Sections 44, 45, 47, 48, 52, 53, and 56B** are treated as coming into force on 1 April 2018.

(11B) **Section 67I** is treated as coming into force on 27 June 2018.

(11C) **Sections 51B, 67H, 67J, 67K, 71D, 71E, 74B, 94, 95, and 97** are treated as coming into force on 18 March 2019.

(12) **Sections 41, 46, 48B, 48C, 51C, 61, 61B(1), 65(2), , (3C), (4), (4B), (5), (5B), and (6), 70B, and 70C** are treated as coming into force on 1 April 2019.

(13) **Sections 76, 77, 78, 79, 80, and 81** come into force on the day after the date on which the Act receives the Royal assent.

(13B) **Sections 43B and 57B** come into force on 1 July 2019.

(14) **Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15(2), 16, 17, 18, 19, 23, 24, 25, 26(2), (3), and (5), 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38(2), 39, 39B, and 72** come into force on 1 December 2019.

(14B) ~~**Section 45B** comes~~ **Sections 45B, 98, 99, 100, and 101** come into force on 1 January 2020.

(15) **Sections 56, 61B(2), 71B, 83, 86, 87, 88, 89, 90, 91, 92, and 93** come into force on 1 April 2020.

Part 1
Annual rates of income tax

3 Annual rates of income tax for 2019–20 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2019–20 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2
Amendments to Goods and Services Tax Act 1985

4 Goods and Services Tax Act 1985

This Part amends the Goods and Services Tax Act 1985.

5 Section 2 amended (Interpretation)

(1) In section 2(1), definition of **electronic marketplace**, paragraph (a), replace "supply of remote services by electronic means" with "supply of goods, or of remote services by electronic means,".

(2) In section 2(1), insert in the appropriate alphabetical order:

entry value threshold means $1,000

estimated customs value, for an item of goods, means the value of the item determined by the supplier under **section 10B** for comparison with the entry value threshold

(3) In section 2(1), definition of **marketplace**, paragraph (b), replace "remote services" with "distantly taxable goods or remote services".

(4) In section 2(1), insert in the appropriate alphabetical order:

quarter means a quarter as defined in section YA 1 of the Income Tax Act 2007

(5) In section 2(1), insert in the appropriate alphabetical order:

redeliverer, for a supply of goods and a recipient of the supply, means a person who, under an arrangement with the recipient, delivers the goods from outside New Zealand at a place in New Zealand or arranges or assists the delivery of the goods from outside New Zealand at a place in New Zealand and—

(a) provides the use of an address outside New Zealand to which the goods are delivered:

(b) arranges or assists the use of an address outside New Zealand to which the goods are delivered:

(c) purchases the goods outside New Zealand as an agent of the recipient:

(d) arranges or assists the purchase of the goods outside New Zealand

(6) In section 2(1), insert in the appropriate alphabetical order:

underlying supplier, for a supply of goods or services that is supplied by the operator of a marketplace under section 60C or 60D, means the person who would be the supplier of the goods and services in the absence of sections 60C and 60D

5B Section 2A amended (Meaning of associated persons)

(1) Repeal section 2A(1)(e).

(2) In section 2A(1)(i), replace "paragraphs (a) to (h)" with "paragraphs (a) to (hb)" in each place where it appears.

6 New section 4B inserted (Meaning of distantly taxable goods)

After section 4, insert:

4B Meaning of distantly taxable goods

(1) **Distantly taxable goods** means items of goods that—

(a) are moveable personal property, other than choses in action; and

(b) are not alcoholic beverages, or tobacco or tobacco products, that are exempt from regulations made under section 406(1) of the Customs and Excise Act 2018; and

(c) are supplied by—

(i) a non-resident, and the goods are outside New Zealand at the time of the supply:

(ii) a person who is the supplier under section 60C or 60D, as an operator of a marketplace, and the underlying supplier of the goods is a non-resident:

(iii) a person who is the supplier of the goods under **section 60E**, as a redeliverer; and

(d) are delivered at a place in New Zealand and the supplier or an underlying supplier makes, or arranges, or assists, the delivery; and

(e) each have—

(i) an estimated customs value under **section 10B** equal to or less than the entry value threshold:

(ii) a supplier that has made an election under **section 10C** that is effective at the time of the supply.

(2) If distantly taxable goods are part of a supply that also includes items of goods that do not meet the requirements of **subsection (1)(a) to (e)**, the distantly taxable goods are treated as being a supply and the other items are treated as being a separate supply.

7 Section 5 amended (Meaning of term supply)

(1) In section 5(11G), words before paragraph (a), after "a supply of goods and services", insert "by the redeemer of the token, stamp, or voucher".

(2) Replace section 5(11G)(a) and (b) with:

(a) if the supply is a supply of remote services or of distantly taxable goods; or

(b) when a supply does not meet the requirements of **paragraph (a)**, if—

(i) it is not practical to treat the issue or sale as a supply of goods and services; and

(ii) the supplier of the goods and services and the issuer or seller of the token, stamp, or voucher are, or could be, different persons, the issuer and the supplier, or the seller and the supplier, agree, or are parties to an agreement.

(3) In section 5(27), replace the words before paragraph (a) with—

(27) The Commissioner may treat a person resident in New Zealand who receives a supply as if they were making a supply of goods or services that is chargeable with tax under section 8(1) if—

(aa) the supply is—

(i) a supply of distantly taxable goods to which **section 8(3)(ab)** applies, or that is supplied by a resident:

(ii) a supply of remote services to which section 8(3)(c) applies, or that is supplied by an agent under section 60(1AB) or by an operator of a marketplace under section 60C or 60D; and

(4) In section 5(27)(a),—

(a) after "payment of tax", insert "or of an amount on account of tax":

(b) delete "under section 8B(6)".

(5) In section 5(27)(b), before "the services", insert "the supply of the goods is made or".

(7) In section 5(27)(b)(ii), replace "a service supplied in New Zealand; and" with "goods, or a service, supplied in New Zealand; or".

(8) After section 5(27)(b)(ii), insert:

(iii) a supply of distantly taxable goods having a value that is less than the cost of the goods, if the supplier meets the requirements of **section 60G(1)** relating to the treatment of the fact or information; and

(9) After section 5(27), insert:

(28) The Commissioner may treat a person who is a non-resident, and is the underlying supplier for a supply of distantly taxable goods made by the operator of a marketplace, as the supplier of the goods if—

(a) the person has knowingly notified a fact or provided information that is altered, false, or misleading; and

(b) after the date on which the supply of the goods is made, it is found that the notification or provision of information has caused the operator of the marketplace to return a deficient amount of output tax on the supply; and

(c) the person's behaviour described in **paragraph (a)** is a repeated occurrence or the amount of tax on the supply that was not collected by the marketplace operator is substantial.

8 Section 5B amended (Supply of certain imported services)

(1) In the heading to section 5B, after "**imported**", insert "**goods and**".

(2) In section 5B, replace "services" with "goods or services".

9 Section 8 amended (Imposition of goods and services tax on supply)

(1) In section 8(3), replace paragraph (a) with:

(a) the goods are in New Zealand at the time of the supply and are not distantly taxable goods to which **paragraph (ab)** applies; or

(ab) the goods are distantly taxable goods to which **subsection (4E)** does not apply; or

(2) In section 8(4B), words before paragraph (a),—

(a) replace "services" with "goods or services":

(b) replace "or (4D)" with ", (4D), or **(4E)**".

(3) In section 8(4B)(a), replace "the services" with "the goods or services".

(4) In section 8(4B)(b)(i), replace "the services" with "the goods or services".

(5) In section 8(4B)(b)(ii), replace "the services" with "the goods or services".

(6) Before section 8(5), insert:

(4E) Despite subsection (3), if a non-resident is the supplier of distantly taxable goods, to which **subsection (3)(ab)** would apply but for this subsection, to a registered person for the purposes of carrying on the registered person's taxable activity, the goods are treated as being supplied outside New Zealand, except if **subsection (4F)** applies to the supply.

(4F) **Subsection (4E)** does not apply to treat goods as being supplied outside New Zealand if—

(a) the non-resident supplier chooses that this subsection apply to the supply of the goods; and

(b) at the time of the election, the non-resident supplier reasonably expects that more than 50% of the value of the supplies made by the non-resident supplier to persons in New Zealand during the period of 12 months

from the election will be made to persons who are not registered persons; and

(c) the value of the supply is less than or equal to $1,000.

10 Section 8B amended (Remote services: determining residence and status of recipients)

(1) In section 8B, heading, delete "**and status**".

(1B) In section 8B(1), after "11A(1)(j)", insert ", 60(1AB)".

(2) In section 8B(5), replace "Subsection (6)" with "**Section 8BB(1)**".

(3) Repeal section 8B(6) to (8).

11 New section 8BB inserted (Certain supplies by non-residents: determining whether recipient is registered person)

After section 8B, insert:

8BB Certain supplies by non-residents: determining whether recipient is registered person

(1) A non-resident registered person (the **supplier**) that makes a supply to a person (the **recipient**) of distantly taxable goods to which **section 8(3)(ab)** applies and involving delivery at a place in New Zealand, or of remote services to which section 8(3)(c) applies, must not treat the supply as being made to a registered person for use in the course or furtherance of the registered person's taxable activity if the recipient does not meet the requirements of this section.

(2) A recipient meets the requirements of this section if the recipient notifies the supplier that the recipient is a registered person or provides the supplier with the recipient's registration number or New Zealand Business Number.

(3) The Commissioner may prescribe, as an alternative to the method in **subsection (2)**, a method that a supplier may use to determine whether the supply is made to a registered person for use in the course or furtherance of the registered person's taxable activity, or may agree with the supplier on the use of another method to determine whether the supply is made to a registered person for use in the course or furtherance of the registered person's taxable activity.

(4) In prescribing or agreeing to the use of an alternative method under **subsection (3)**, the Commissioner may take into account—

(a) the nature of the supply, including, for example, whether the supply is of goods and services that are purchased only by a registered person in the course or furtherance of the registered person's taxable activity:

(b) the value of the supply, including, for example, whether the supply is of a value that would be expected to be received only by a registered person in the course or furtherance of the registered person's taxable activity:

(c) the terms and conditions related to the provision of the goods and services, including, for example, whether the supply is of goods and services that may be leased, licensed, or otherwise made available, for use by a registered person in the course or furtherance of the registered person's taxable activity.

12 Section 10 amended (Value of supply of goods and services)

(1) In section 10(3E), replace "services" with "goods or services".

(2) After section 10(7B), insert:

(7C) Where a redeliverer makes a supply of distantly taxable goods to a recipient under **section 60E**, the value of the supply is an amount equal to the consideration paid for the goods by the recipient.

(7D) Where an operator of a marketplace makes a supply of remote services or distantly taxable goods under **section 60C or 60D** to a recipient who accepts an offer by the operator of a reduction in the price of the supply to the recipient, the supply is made for the reduced price.

(7E) Where a person makes a supply of services to the recipient of a supply of goods that include distantly taxable goods, and the supply of services includes services (the **related services**) that relate to the distantly taxable goods, the consideration for the related services is part of the consideration for the supply of the distantly taxable goods if—

(a) the consideration for the supply of the related services is determined by reference to the items included in the supply of distantly taxable goods; and

(b) the supply of services is made or arranged or facilitated by the supplier or underlying supplier of the distantly taxable goods; and

(c) the supply of related services is directly in connection with the distantly taxable goods or is of insurance of the goods; and

(d) the supply of related services would be chargeable with tax at the rate of 0% in the absence of this subsection; and

(e) the supply of related services and the supply of distantly taxable goods do not form a single supply.

13 New sections 10B and 10C inserted

After section 10, insert:

10B Estimating value of goods in supply for treatment as distantly taxable goods

(1) The value of an item of goods is determined under this section for the purposes of determining, when a supply of the goods is made, whether the goods are distantly taxable goods.

(2) The value of an item of goods under this section is the consideration for the supply of the item reduced by the total amount included in that consideration for—

(a) the cost of transport and insurance charges,—

(i) for goods that are imported into New Zealand, for the period beginning when the item leaves the country or territory from which the goods are supplied and ending when the item is delivered in New Zealand:

(ii) for goods that are not imported into New Zealand, for the period beginning when the item leaves its place of origin and ending when the item is delivered in New Zealand:

(b) tax charged on the item under section 8:

(c) duty payable on the item under the Customs and Excise Act 2018.

(3) The supplier of an item of goods may use a reasonable estimate of the amount referred to in **subsection (2)**, based on the information available to the supplier at the time of the supply.

10C Election by supplier that supplies of higher-value goods be supplies of distantly taxable goods

(1) A person (the **electing supplier**) who is a non-resident, or is a supplier of goods under section 60C, 60D, or **60E**, may make an election under this section for a taxable period (the **initial period**) beginning after the election if,—

(a) the Commissioner has not, before the election, cancelled under **subsection (5)(b)** an election under this section by the electing supplier; and

(c) the electing supplier notifies the Commissioner of the election before the initial period.

(1B) The Commissioner may agree with an election under **subsection (1)** by an electing supplier who is a non-resident, or is an operator of a marketplace or a redeliverer, if,—

(a) at the time of the election, there are reasonable grounds for believing that 75% or more of the total value of distantly taxable goods supplied by the electing supplier to places in New Zealand in the 12-month period beginning with the first day of the initial period will consist of items having an estimated customs value equal to or less than the entry value threshold:

(b) for an electing supplier who does not meet the requirements of **paragraph (a)**, the Commissioner considers that agreeing with the election will not result in a risk to the integrity of the tax system, taking into account—

(i) whether the electing supplier and associated persons have a good history of previous compliance with the requirements of taxation

laws and the taxation laws of countries and territories outside New Zealand; and

(ii) the total value of items of goods, each having an estimated customs value greater than the entry value threshold, that the electing supplier sells in a period and are delivered at places in New Zealand; and

(iii) other considerations that the Commissioner considers to be relevant.

(2) An election under this section to which the Commissioner agrees is effective for—

(a) goods that meet the requirements of **section 4B(1)(a) to (d)** for distantly taxable goods; and

(b) the initial period; and

(c) later taxable periods beginning before a cancellation of the election under **subsection (5)**.

(3) For a taxable period for which the election is effective under **subsection (2)**, a supply by the electing supplier, after the election, of an item of goods having an estimated customs value greater than the entry value threshold is a supply of distantly taxable goods if the goods are delivered at a place in New Zealand.

(5) The Commissioner may cancel an election from a date after which the election would otherwise be effective—

(a) by notifying the electing supplier of the date on which the election ends, if the electing supplier requests the cancellation:

(b) if **paragraph (a)** does not apply, by—

(i) notifying the electing supplier of the date of the proposed cancellation and the reasons for the proposed cancellation; and

(ii) considering any arguments against the proposed cancellation that are provided by the electing supplier within 30 days from the date of notification, or within a shorter or longer period if the Commissioner considers that the period is appropriate in the circumstances; and

(iii) notifying the electing supplier of the date on which the election is cancelled.

14 Section 11 amended (Zero-rating of goods)

(2) In section 11(1)(j)(ii), before "the recipient", insert "the goods are not distantly taxable goods and".

(3) After section 11(1)(j), insert:

(jb) the supply is of distantly taxable goods to which section 60(1C)(a) applies, being a supply from an underlying supplier to an operator of a marketplace; or

15 Section 11A amended (Zero-rating of services)

(1) After section 11A(1)(jb), insert:

(jbb) the services are the arranging of underlying services that are supplied directly in connection with moveable personal property, other than choses in action, situated outside New Zealand when the services are performed; or

(2) After section 11A(1C), insert:

(1D) Subsection (1)(a), (c), (cb), (d), and (f) do not apply to a supply, by a registered person who is a redeliverer and supplier under **section 60E**, of services in relation to a supply of distantly taxable goods that is charged with tax under section 8 at a rate of more than zero.

16 Section 12 amended (Imposition of goods and services tax on imports)

After section 12(1A), insert:

(1B) For the purposes of subsection (1), the value of distantly taxable goods does not include the amounts referred to in subsection (2)(a), (c), and (d) if a registered person before the importation includes tax under section 8 at a rate of more than zero in the price of a supply of the goods.

(1C) For the purposes of determining whether an item of goods in a consignment is goods to which **subsection (1B)** applies, the price, before the importation, of the supply of the item is treated as not including tax under section 8 at a rate of more than zero unless the information available to the New Zealand Customs Service at the time of the importation of the item—

(a) sufficiently identifies the item and the registered person who includes the tax in the price of the supply of the item:

(b) is information relating to the item that is acceptable to the Commissioner for the purposes of this subsection.

17 New section 12B inserted (Reimbursement of tax by supplier if recipient charged tax on both supply and importation)

After section 12, insert:

12B Reimbursement of tax by supplier if recipient charged tax on both supply and importation

(1) This section applies if a registered person makes a supply of goods, that involves the importation of the goods into New Zealand and is treated as being a supply of distantly taxable goods charged with tax at a rate of more than zero,

and receives consideration for the supply that includes an amount as tax charged under section 8 on the supply.

(2) The registered person must reimburse the recipient of the supply for the amount received as tax charged under section 8 if the supplier receives a request from the recipient and a declaration from the recipient, or other confirmation, that the amount of tax charged under section 12 on the importation was paid when the goods were imported.

17B Section 14 amended (Exempt supplies)

In section 14(1)(d), replace "or paragraph (ca)" with ", (ca), or (cb)".

18 Section 15 amended (Taxable periods)

(1) In section 15(6), replace "remote services" with "distantly taxable goods or remote services".

(2) After section 15(6), insert:

(7) Despite subsection (6), a non-resident supplier of distantly taxable goods that becomes a registered person ~~on 1 December 2019~~ in the period beginning on 1 December 2019 and ending on 31 December 2019 has a first taxable period of 1 December 2019 to 31 March 2020.

19 Section 20 amended (Calculation of tax payable)

(1) In section 20(2)(d), replace "services" with "goods or services".

(2) After section 20(3)(dc), insert:

(dd) an amount of output tax charged on a supply of distantly taxable goods to the extent that the supplier has, in relation to the supply, incurred liability for, returned, and paid, a consumption tax in another country or territory when the goods are supplied to a person in New Zealand who is not a registered person; and

(8A) In section 20(3L), after "section 54B", insert "or is a supplier of distantly taxable goods or remote services to which **section 8(3)(ab)** or (c) applies".

(8AB) In section 20(3LB), after "section 54B", insert ", or is a supplier of distantly taxable goods or remote services to which **section 8(3)(ab)** or (c) applies,".

(8) In section 20(4C), replace "supply of remote services" with "supply of distantly taxable goods by a non-resident to which **section 8(3)(ab)** applies or a supply of remote services".

(8B) In section 20(4C), after "section 24(5B)", insert "or **(5BB)**".

(9) In section 20(4D),—

(a) replace "supply of remote services" with "supply of distantly taxable goods to which **section 8(3)(ab)** applies or of remote services,":

(b) replace "recipient and" with "recipient, if".

20 Section 20G amended (Treatment of supplies of certain assets)

In section 20G(2)(a), replace paragraphs (i) and (ii) with:

(i) related solely to the taxable use of the asset; or

(ii) related solely to the non-taxable use of the asset:

21 Section 20H amended (Goods and services tax incurred in making financial services for raising funds)

(1) Replace section 20H(1) with:

(1) A registered person who makes supplies of financial services referred to in **paragraph (a)**, and is, or intends to be, principally making supplies that would be taxable supplies in the absence of the supplying of the financial services, has a deduction under section 20(3)(hd) of input tax for the supplies that are used in making the supplies of the financial services, if—

(a) the supplies of the financial services (the **funding support services**) are made in the course of raising funds that are intended to be used in a taxable activity, or to be a replacement for funds used in a taxable activity, of the registered person or of a person (the **group company**) in the same group of companies under the Income Tax Act 2007; and

(b) the funding support services are not referred to in section 11A(1)(q) and (r); and

(c) the supplies used in making the supplies of funding support services do not give rise to a deduction under section 20(3) for the registered person or the group company in the absence of this section; and

(d) the funding support services are the issue or allotment of a debt security or equity security, the renewal of a debt security or equity security, the payment of an amount of interest, principal, or dividend for a debt security or equity security, or the provision or variation of a guarantee of the performance of obligations in the issue, allotment, or renewal, of a debt security or equity security; and

(e) the funding support services fail to raise the funds or do raise funds that are used, or that replace funds that are used, by the registered person or the group company for expenditure in the taxable activity; and

(f) the supplies used in making the supplies of funding support services would give rise to a deduction under section 20(3) if used in the taxable activity in which the funds are intended to be used.

(1B) If a registered person makes supplies of financial services in the course of raising funds that are or would have been used by the registered person or a group company in both a taxable activity and an activity that is not a taxable activity (the **funded activities**), the deduction for input tax under **subsection (1)** is limited to the input tax from a fraction of the total expenditure incurred in supplying the financial services, where the fraction equals the fraction of the total

value of supplies made in the course or furtherance of the funded activities that consists of taxable supplies.

(2) **Subsection (1)** applies for a person and a supply made on or after 1 April 2017, except for a supply for which the person has, before the date of Royal assent to this Act, taken a tax position that is inconsistent with the amendment made by **subsection (1)**.

22 Section 21HB amended (Transitional rules related to treatment of dwellings)

In section 21HB(4), before paragraph (a), insert:

(aa) were acquired by the person before 1 April 2011; and

23 Section 24 amended (Tax invoices)

(1) After section 24(5)(b), insert:

(c) the supplier is a non-resident supplier making a supply of distantly taxable goods to which **section 8(3)(ab)** applies.

(2) In section 24(5B)(a), words before subparagraph (i), replace "a non-resident supplier of remote services" with "a non-resident making a supply of distantly taxable goods to which **section 8(3)(ab)** applies or of remote services".

(3) In section 24(5B)(a)(i), after "section 8(4D)", insert "or **(4E)**".

(4) In section 24(5B)(a)(i), replace "so that the services" with "so that the goods or services".

~~(5B) After section 24(5B)(a)(i), insert:~~

~~(ib) **section 8(4F)** applies to the supply so that the goods or services are treated as being supplied in New Zealand; or~~

(6) In section 24(5B)(b), replace "the consideration in money for the supply" with "the value of the supply".

(6B) After section 24(5B), insert:

(5BB) Despite subsection (5), a supplier is required to provide a tax invoice if **section 8(4F)** applies to the supply so that the goods or services are treated as being supplied in New Zealand.

(7) In section 24(5D), after "section 8(4D)", insert "or **(4E)**".

24 New sections 24BAB and 24BAC inserted

After section 24BA, insert:

24BAB Receipts for supplies

(1) A registered person who makes a supply of distantly taxable goods at a price that includes tax under section 8(1) at a rate of more than zero must provide to the recipient of the supply, at the time of the supply, a receipt for the goods in the supply and for other goods imported with the supply containing the particu-

lars given by **subsection (2)** or alternative particulars acceptable to the Commissioner.

(2) The particulars required by this subsection to be included in a receipt are—

(a) the name and registration number of the supplier:

(b) the date of the supply:

(c) the date upon which the receipt is issued:

(d) a description of the goods supplied and the other goods imported:

(e) the consideration for the goods, and the amount of tax included, which may be expressed in the currency of the consideration received by the supplier:

(f) information indicating the items for which the amount of tax included is more than zero:

(g) information indicating the items for which the amount of tax included is zero.

(3) A registered person who omits to issue a receipt for a supply as required by **subsection (1)** and is requested by the recipient of the supply to provide a receipt for the supply must provide the receipt within 10 working days after the request.

24BAC Information for importation of goods including distantly taxable goods

A registered person who makes a supply of distantly taxable goods must take reasonable steps to ensure that the New Zealand Customs Service has available, by the time of the importation of the goods,—

(a) the name and registration number of the registered person:

(b) information indicating the items included in the supply, or imported with the supply, for which the amount of tax included in the price of the supply is more than zero:

(c) information indicating the items included in the supply, or imported with the supply, for which the amount of tax included in the price of the supply is zero:

(d) information that is acceptable to the Commissioner in substitution for information referred to in **paragraphs (a) to (c)**.

25 Section 24B amended (Records to be kept by recipient of imported services)

(1) In the heading to section 24B, replace "**services**" with "**goods and services**".

(2) In section 24B, words before paragraph (a), replace "services" with "goods or services".

(3) In section 24B(c), replace "services" with "goods or services".

26 Section 25 amended (Credit and debit notes)

(1) In section 25(1)(aab), words before subparagraph (i), replace "section 8(4)" with "section 8(4D)".

(2) In section 25(1)(aab), words before subparagraph (i),—

(a) after "section 8(4D)", insert "or **(4E)**":

(b) replace "services" with "goods or services".

(3) In section 25(1)(aab)(i), after "supplier of", insert "goods to which **section 8(3)(ab)** applies or of ".

(5) After section 25(1)(b), insert:

(bb) the supply of goods is treated as being a supply of distantly taxable goods that is made in New Zealand and charged with tax at a rate of more than zero, and—

(i) the supplier receives a declaration from the recipient, or other confirmation, that the amount of tax charged under section 12 on the importation into New Zealand of the goods was paid when the goods were imported; and

(ii) the supplier reimburses the recipient for the amount of tax included in the consideration for the supply; or

27 Section 25AA amended (Consequences of change in contract for imported services)

(1) In the heading to section 25AA, replace "**services**" with "**goods and services**".

(2) In section 25AA(1), words before paragraph (a), replace "services" with "goods or services".

(3) In section 25AA(1)(a), replace "services" with "goods or services", in each place where it appears.

(4) In section 25AA(1)(a)(v), after "section 24(5B)", insert "or **(5BB)**".

28 Section 25A amended (Commissioner may approve use of symbols, etc, on electronically transmitted invoices and credit and debit notes)

(1) In the heading to section 25A, replace "**invoices and**" with "**invoices, receipts, and**".

(2) In section 25A(1),—

(a) replace "tax invoices and" with "tax invoices, receipts, and":

(b) replace "section 24 or 25" with "section 24, **24BAB**, or 25":

(c) replace "tax invoice or" with "tax invoice, a receipt, or".

29 Section 26 amended (Bad debts)

After section 26(4), insert:

(5) This section does not apply when the taxable supply is made by a marketplace operator and **section 26AA** applies to the bad debt.

30 New section 26AA inserted (Marketplace operators: bad debts for amounts of tax)

After section 26, insert:

26AA Marketplace operators: bad debts for amounts of tax

(1) This section applies to a marketplace operator who is the supplier under section 60C or 60D of distantly taxable goods or remote services provided by a person who is not an associated person and—

(a) charges the underlying supplier a fee for making the taxable supply; and

(b) furnishes a return in relation to the taxable period during which the output tax on the supply is attributable; and

(c) accounts for the output tax on the supply; and

(d) has an agreement with the underlying supplier under which the underlying supplier is required to pay to the marketplace operator, from consideration received by the underlying supplier from the supply, an amount (the **debt**) that includes the amount of output tax on the supply for which the marketplace operator accounts; and

(e) the marketplace operator writes off as a bad debt the total amount consisting of the fee and debt referred to in **paragraphs (a) and (d)** (the **write-off**).

(2) The marketplace operator shall make a deduction under section 20(3), or account for a reduction in output tax, equal to the tax charged on the taxable supply.

(3) If the marketplace operator recovers in a later taxable period an amount of a bad debt that gave rise to a deduction or reduction under **subsection (2)**, the marketplace operator shall account for an amount of output tax that is a fraction of the amount of the deduction or reduction, where the fraction is calculated by dividing the amount of the recovery by the amount of the write-off.

31 Section 51 amended (Persons making supplies in course of taxable activity to be registered)

In section 51(1C), replace "of remote services", with "making a supply of distantly taxable goods to which **section 8(3)(ab)** applies or of remote services".

32 Section 51B amended (Persons treated as registered)

(1) In section 51B(1), words before paragraph (a), after "registered persons", insert "making supplies in the course or furtherance of a taxable activity".

(2) Replace section 51B(7) with:

(7) For the purposes of this Act, if a recipient is treated as a supplier under section 5(27) of—

(a) a supply of distantly taxable goods to which **section 8(3)(ab)** applies, or that is supplied by a resident, the recipient is treated as registered from the date on which the supply of the goods is made:

(b) a supply of remote services to which section 8(3)(c) applies, or that is supplied by an agent under section 60(1AB) or by an operator of a marketplace under section 60C or 60D, the recipient is treated as registered from the date on which the services are physically performed.

(3) After section 51B(7), insert:

(8) For the purposes of this Act, in relation to a supply of goods by a non-resident through a marketplace, a person who is treated as a supplier under **section 5(28)** is treated as registered from the date on which the supply is made.

33 Section 56B amended (Branches and divisions in relation to certain imported services)

(1) In the heading to section 56B, replace "**services**" with "**goods and services**".

(2) In section 56B(1), replace "services" with "goods or services".

34 Section 60 amended (Agents and auctioneers)

(1) In section 60(1A)(b), replace "remote services" with "distantly taxable goods or remote services".

(2) In section 60(1C), words before paragraph (a), replace "and a resident supplier who makes supplies of services" with "or a supplier who makes supplies of goods or services".

(3) In section 60(1C)(a), replace "services" with "goods and services".

(4) In section 60(1C)(b), replace "services" with "goods and services" in each place where it appears.

35 Section 60C amended (Electronic marketplaces)

(1) In section 60C(1)(a), replace "supply of remote services" with "supply of goods or a supply of remote services".

(2) Delete section 60C(1)(b).

(3) Replace section 60C(1)(c) with:

(c) the supply is of services made to a person resident in New Zealand or of goods made to a person involving delivery at a place in New Zealand.

(4) Replace section 60C(2) with:

(2) The operator of the marketplace is treated as making, in the course of furtherance of a taxable activity, a supply to a person (the **recipient**) of—

(a) remote services if the recipient is resident in New Zealand:

(b) items of goods, meeting the requirements of **section 4B(1)(a) to (d)** for distantly taxable goods, for which—

(i) the underlying supplier of the goods is a non-resident; and

(ii) the operator or the underlying supplier makes or arranges or assists the delivery of the supply to the recipient at a place in New Zealand; and

(iii) each item has an estimated customs value under **section 10B** equal to or less than the entry value threshold, if the operator has not made an election under **section 10C** that is effective at the time of the supply.

(2B) **Subsection (2)** does not apply to a supply if—

(a) the documentation provided to the recipient identifies the supply as made by the underlying supplier and not the marketplace; and

(b) the underlying supplier and the operator of the marketplace have agreed that the supplier is liable for the payment of tax; and

(c) the marketplace does not—

(i) authorise the charge for the supply to the recipient:

(ii) make or authorise the delivery of the supply to the recipient:

(iii) directly or indirectly set a term or condition under which the supply is made.

(2C) **Subsection (2)** does not apply to a supply of goods if—

(a) the underlying supplier of the goods is a non-resident that has a branch in New Zealand; and

(b) the operator of the marketplace treats the underlying supplier as a New Zealand resident in relation to the supply; and

(c) in treating the underlying supplier as a New Zealand resident, the operator of the marketplace meets the requirements of **section 60G(1)** for information held by the operator relating to the residence of the underlying supplier.

(5) In section 60C(3), replace "supply of remote services" with "supply of goods or supply of remote services".

36 Section 60D amended (Approved marketplaces)

(1) In section 60D(1)(a), replace "supply of remote services" with "supply of goods by a non-resident person or a supply of remote services,".

(2) Delete section 60D(1)(b).

(3) Replace section 60D(1)(c) with:

(c) the supply is of services made to a person resident in New Zealand or of goods made to a person involving delivery at a place in New Zealand.

(4) Replace section 60D(2) with:

(2) The operator of the marketplace is treated as making, in the course of furtherance of a taxable activity, a supply to a person (the **recipient**) of remote services or distantly taxable goods if—

(a) the Commissioner, in the exercise of a discretion, approves an application under this subsection by the operator of the marketplace; and

(b) for a supply of remote services, the recipient is resident in New Zealand; and

(c) for a supply of goods meeting the requirements of **section 4B(1)(a) to (d)** for distantly taxable goods,—

(i) the underlying supplier of the goods is a non-resident; and

(ii) the operator or the underlying supplier makes or arranges or assists the delivery of the goods to the recipient at a place in New Zealand; and

(iii) the supply is of items of goods for which each item has an estimated customs value under **section 10B** equal to or less than the entry value threshold, if the operator has not made an election under **section 10C** that is effective at the time of the supply.

(5) In section 60D(3)(a), words before subparagraph (i), after "recipient of", insert "the supply of goods or".

37 New sections 60E, 60F, and 60G inserted

After **section 60D**, insert:

60E When redeliverer is supplier of distantly taxable goods

(1) For a supply of goods to a recipient, a redeliverer of the goods is the supplier of the goods if—

(a) no operator of an electronic marketplace is the supplier under **section 60C(2) and (3)**; and

(b) no operator of a marketplace is the supplier under **section 60D(2) and (3)**; and

(c) no seller or underlying supplier of the goods makes or arranges or assists the delivery of the supply to the recipient at a place in New Zealand; and

(d) the supply meets the requirements for being a supply of distantly taxable goods when treated as being made by the redeliverer.

(2) If, in relation to a single supply of distantly taxable goods to a recipient, more than 1 redeliverer is liable to account for tax on the supply, the person treated as making the supply is the redeliverer that first enters into an arrangement relating to the supply with the recipient, or, in the absence of such an arrangement, first enters into an arrangement relating to the supply with a person acting on behalf of the recipient.

60F Operator of marketplace or redeliverer making return based on faulty information

(1) This section applies to a registered person who is an operator of an electronic marketplace, or a redeliverer, and makes a return of a deficient amount for the total output tax allocated to a taxable period (the **return period**) as a consequence of relying on inaccurate, incomplete, insufficient, or misleading information—

(a) relating to a supply of goods made through the marketplace or by the registered person as operator of the marketplace, or by the registered person as a redeliverer; and

(b) provided by a seller or underlying supplier of the goods or by a recipient of the supply of goods.

(2) An amount equal to the deficiency in the total amount of output tax returned that arises from the inaccurate, incomplete, insufficient, or misleading information is treated as being a reduction in the total output tax allocated to the return period, if the registered person meets the requirements of **section 60G**.

60G Requirements for treatment of information by operator of marketplace or redeliverer

(1) A registered person that is an operator of an electronic marketplace or a redeliverer and makes a return of a deficient amount of output tax as described in **section 60F** meets the requirements of this section if—

(a) the amount of the deficiency arises from inaccurate, incomplete, insufficient, or misleading information, which may relate to the matters described in **subsection (1B)**; and

(b) for information relating to the matters described in **subsection (1B)(a) to (c)**, the registered person meets—

(i) the applicable requirements of **subsections (2) to (5)**, which relate to the obtaining and the interpretation of the information:

(ii) applicable requirements that are alternative to the requirements referred to in **subparagraph (i)** and are prescribed or agreed to by the Commissioner under ~~**subsection (6)**~~ **subsection (6)**; and

(c) the registered person relies on the information referred to in **paragraph (a)** in good faith and on reasonable grounds.

(1B) Inaccurate, incomplete, insufficient, or misleading information referred to in **subsection (1)(a)** may relate to—

(a) the residency of the underlying supplier of the goods:

(b) the place to which the goods are delivered:

(c) the amount of consideration paid for the supply by the recipient of the supply:

(d) whether the registered person is the supplier of the goods:

(e) the amount of tax charged under section 8 on the supply for which the registered person is required to account.

(2) This subsection requires a registered person that is an operator of an electronic marketplace and does not know the residency of an underlying supplier of goods in a supply, to—

(aa) treat the underlying supplier of the goods as a non-resident, if **paragraph (a)** does not require a different treatment; or

(a) treat the underlying supplier of the goods as a resident if the registered person has—

(i) information that the underlying supplier is a company that is incorporated in New Zealand or has its centre of management in New Zealand:

(ii) a New Zealand business number for the underlying supplier:

(iii) 2 or more items of information listed in **subsection (5)** that are non-contradictory and support the conclusion that the underlying supplier is resident in New Zealand and are more reliable than items of information listed in **subsection (5)** that are held by the registered person and support the conclusion that the underlying supplier is not resident in New Zealand.

(3) This subsection requires a registered person that is an operator of an electronic marketplace and does not know the address to which the goods in a supply are to be delivered, to—

(a) treat the supply of goods as being made to the recipient at a place in New Zealand if the registered person—

(i) has 2 items of information listed in **subsection (5)** that are non-contradictory and support the conclusion that the recipient is located in New Zealand; and

(ii) does not have 2 items of information listed in **subsection (5)** that are non-contradictory, and support the conclusion that the recipient is located in a country or territory other than New Zealand, and are more reliable for determining the location of the recipient than are the items referred to in **subparagraph (i)**; or

(b) treat the supply of goods as being made to the recipient at a place outside New Zealand if a conclusion under **paragraph (a)** that the person is located at a place in New Zealand is not supported by items of information that are held by the registered person and meet the requirements of more than 1 paragraph of **subsection (5)**.

(4) This subsection requires a registered person that is a redeliverer for a supply of distantly taxable goods to a recipient, and is not responsible for the purchase of the goods in the supply, to—

(a) require the recipient of the supply to disclose the value of the consideration before the delivery of the supply; and

(b) obtain a receipt issued by the seller of the goods or other confirmation by the seller of the value of the consideration for the supply.

(5) The items of information referred to in **subsections (2)(a)(iii) and (3)(a) and (b)** for a person and a supply of goods are—

(a) an address of a physical location for the person such as a mailing or billing address:

(b) if the person is the underlying supplier for the supply, a New Zealand GST registration number for the person:

(c) bank details (including the account the person uses for making payments, or the billing address held by the bank, or the account to which the registered person makes payments of amounts owed to the person):

(d) the internet protocol address of the device used by the person or another geolocation method:

(e) the mobile country code of the international mobile subscriber identity stored on the subscriber identity module card used by the person:

(f) the location of the person's fixed land line:

(fb) if the person is the underlying supplier, the location from where the goods are being shipped:

(g) other commercially relevant information.

(6) The Commissioner may—

(a) prescribe requirements that are alternative to those listed in 1 or more of **subsections (2) to (5)**:

(b) agree with a person who is a marketplace operator or redeliverer on requirements that are alternative to those listed in 1 or more of **subsections (2) to (5)**, including requirements for the amount of information to be obtained by the person that is relevant to a subsection and for the use and content of methods for checking the accuracy of the information and the conclusions drawn from the information.

(7) In prescribing or agreeing to alternative requirements for a person under **subsection (6)**, the Commissioner may take into account—

(a) commercially relevant information that is available to the person and the reliability of this information:

(b) the cost for the person of complying with the requirements:

(c) the existing methods available to the person for preventing and remedying situations where incorrect information is provided.

38 Section 75 amended (Keeping of records)

(1) In section 75(3BA)(a), after "English", insert "or te reo Maori".

(2) In section 75(3F), words before paragraph (a), after "supplies of", insert "distantly taxable goods to which **section 8(3)(ab)** applies or of".

(3) In section 75(3F)(a), after "English", insert "or te reo Maori".

(4) In section 75(6)(a)(i), after "English", insert "or te reo Maori".

(5) After section 75(7), insert:

(8) A registered person who is required under this section to keep and maintain records that are in a language other than English must comply with the requirements of sections 24, 24BA, and 25 relating to English words that must appear on a tax invoice, or a debit note or credit note, provided by the registered person.

39 Section 77 amended (New Zealand or foreign currency)

(1) In section 77(2), after "supplier of", insert "distantly taxable goods to which **section 8(3)(ab)** applies or of".

(2) After section 77(4), insert:

(5) A supplier of distantly taxable goods who is required to determine under **section 10B** the value of an item of goods in a supply may, for that purpose, convert foreign currency amounts into New Zealand currency amounts using—

(a) the spot exchange rate for the foreign currency applying at the time of the supply; or

(b) a currency conversion method, and a time for which the method is applied for the supply, that are approved by the Commissioner for the purpose.

39B New section 85C inserted (Certain contracts entered into before 1 December 2019)

After section 85B, insert:

85C Certain contracts entered into before 1 December 2019

(1) This section applies to a supply of distantly taxable goods when—

(a) the contract under which the supply is made is for a fixed term that starts before 1 December 2019 and ends after that date; and

(b) the contract provides for periodic payments that are treated under section 9(3)(a) as successive supplies; and

(c) under the contract, the consideration for the supply is set or reviewed for periods of 396 days or less during the term of the contract; and

(d) **section 8(3)(ab)** would apply to the supply in the absence of this section.

(2) Despite section 9(3)(a), for the period described in **subsection (3)**, the supplier of the goods may, in returns for the taxable periods in the period, choose

to treat the periodic payments as not successively supplied for successive parts of the period of the contract.

(3) The period starts on 1 December 2019 and ends on the earlier of—

(a) the date on which the term of the contract ends:

(b) the date that is 396 days after the date of the contract.

Part 3
Amendments to other enactments

Amendments to Income Tax Act 2007

40 Income Tax Act 2007 amended

Sections 40 to 73 amend the Income Tax Act 2007.

41 Section CB 16A amended (Main home exclusion for disposal within 5 years)

In section CB 16A(3), replace "section" with "section and **section EL 9** (Main home exclusion)".

~~41B Section CE 2 amended (Benefits under employee share schemes)~~

~~In section CE 2(7)(a), replace "Treatment of certain benefits under employee share schemes" with "Treatment of employee share schemes".~~

42 Section CG 5B amended (Receipts from insurance, indemnity, or compensation for interruption or impairment of business activities)

(1) Replace section CG 5B(2), other than the heading, with:

(2) The amount is income of the person to the extent to which it is attributable to income (the **replaced income**) that—

(a) the person would have derived if not for the event:

(b) another person, who assigned the right to receive the amount to the person, would have derived if not for the event.

(2) **Subsection (1)** applies for the 2011–12 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—

(a) in the period that starts on the first day of the 2011–12 income year and ends on the date of Royal assent of this Act; and

(b) in relation to an amount of insurance, indemnity, or compensation for an interruption or impairment of business activities resulting from an event received by the person; and

(c) relying on section CG 5B as it was before the amendment made by **subsection (1)**.

43 Section CV 9 repealed (Supplementary dividend holding companies)

Repeal section CV 9.

43B Section CW 33 amended (Allowances and benefits)

Replace section CW 33(1)(ba) with:

(ba) a payment under section 363, 386AAG, or 386B of the Oranga Tamariki Act 1989:

43C Section CW 35 amended (Personal service rehabilitation payments)

In section CW 35(2), replace "sections CZ 35" with "sections **CZ 36**".

44 Heading after section CX 53 amended (Share-lending arrangements)

In the heading after section CX 53, after "**arrangements**", insert "**and excepted financial arrangements**".

45 New section CX 54B inserted (Transfers of emissions units under certain excepted financial arrangements)

After section CX 54, insert:

CX 54B Transfers of emissions units under certain excepted financial arrangements

An amount that relates to the market value of an emissions unit and is derived by a person in a transfer of the emissions unit under an arrangement that is an excepted financial arrangement under **section EW 5(11C)** (What is an excepted financial arrangement?) is excluded income of the person.

Defined in this Act: amount, arrangement, emissions unit, excepted financial arrangement, excluded income

45B Section CW 57 amended (Non-resident company involved in exploration and development activities)

In section CW 57(1), replace paragraphs (a) and (b) with:

(a) starts on 1 January 2020; and

(b) ends on 31 December 2024.

46 Section CX 60 amended (Intra-group transactions)

(1) Replace section CX 60(2), other than the heading, with:

(2) The amount, except to the extent to which it is described in section FM 8(3) (Transactions between group companies: income), is excluded income of the company.

(2) **Subsection (1)** applies for the 2019–20 and later income years.

46B Section CZ 35 repealed (Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years)

Repeal section CZ 35.

46C New section CZ 36 inserted (Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years)

After section CZ 35, insert:

CZ 36 Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years

When this section applies

(1) This section applies for income years from the 2008–09 income year to the 2017–18 income year when—

(a) a person is paid an amount as a personal service rehabilitation payment; and

(b) the person pays an amount to another person for providing them with a key aspect of social rehabilitation, referred to in the definition of **personal service rehabilitation payment**, in an income year; and

(c) the payment referred to in **paragraph (a)** that is paid in relation to the service referred to in **paragraph (b)** is made in an income year that is later than the income year in which the service is provided to the person.

Treatment of payment

(2) If the Commissioner is satisfied that the tax obligations relating to the personal service rehabilitation payment have been met, the payment is treated as exempt income for the income year in which the person derives the payment.

Defined in this Act: amount, Commissioner, exempt income, income year, pay, personal service rehabilitation payment

47 Heading after section DB 15 amended (Share-lending arrangements)

In the heading after section DB 15, after "**arrangements**", insert "**and excepted financial arrangements**".

48 New section DB 17B inserted (Transfers of emissions units under certain excepted financial arrangements)

After section DB 17, insert:

DB 17B Transfers of emissions units under certain excepted financial arrangements

A person is denied a deduction for an amount of expenditure that relates to the market value of an emissions unit and is incurred by a person in a transfer of the emissions unit under an arrangement that is an excepted financial arrange-

ment under **section EW 5(11C)** (What is an excepted financial arrangement?).

Defined in this Act: amount, arrangement, emissions unit, excepted financial arrangement, excluded income

48B Section DB 18A repealed (Ring-fenced allocations: disposal of residential land within 5 years)

Repeal section DB 18A.

48C Section DB 18AB repealed (Deduction cap: disposal of residential land within 5 years to associated persons)

Repeal section DB 18AB.

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

(1) In section DE 4(1)(a), replace "; or" with "; and".

(2) In section DE 4(1)(b), replace "; or" with "; and".

51 Section DV 18 amended (Statutory producer boards and co-operative companies)

In section DV 18(1), replace "sections OB 73 and OB 78" with "sections OB 73, OB 78, and **OB 78B**".

51B Section EH 1 amended (Income equalisation schemes)

In section EH 1(2), words before paragraph (a), replace "3" with "2".

51C New subpart EL (Allocation of deductions for excess residential land expenditure)

(1) After section EK 23, insert:

Subpart EL—Allocation of deductions for excess residential land expenditure

Introductory provisions

EL 1 Outline of subpart: general

General outline

(1) The provisions in this subpart, in general,—

(a) limit a person's deductions for expenditure incurred in relation to residential land to income derived from the land; and

(b) suspend deductions for the excess expenditure for the income year in which the expenditure is incurred; and

(c) provide that the excess amounts are carried forward to later income years in which the person derives residential income; and

(d) release the excess amounts on fully-taxed disposals of land.

Allocation rules

(2) Separate allocation rules apply for—

(a) residential rental property, *see the outline in* **section EL 2(1) to (6)**:

(b) bright-line disposals of residential land, *see the outline in* **section EL 2(7)**.

Defined in this Act: amount, deduction, dispose, income, income year, residential land, residential rental property

EL 2 Outline of subpart: specific provisions

Residential rental property

(1) **Sections EL 4 to EL 8** apply when a person owns a residential rental property and has expenditure or loss that relates to the property for which they are allowed a deduction. For this purpose, the expenditure does not include an amount that is a cost of revenue account property.

Application by portfolio or on property-by-property basis

(2) The rules in **sections EL 4 to EL 8** apply—

(a) to a person's residential portfolio:

(b) by election, on a property-by-property basis.

Portfolios plus particular properties

(3) A person may choose to apply the rules on a property-by-property basis for an income year to 1 or more properties while applying the rules on a portfolio basis in relation to other properties owned by them.

Use of amounts

(4) If a person has excess expenditure under **section EL 4**, they may use the amount in later income years in which they derive residential income. In certain cases, the amounts are released from the application of the rules.

Exclusions

(5) The following sections set out the properties that are excluded from the definition of **residential rental property**:

(a) **section EL 9**: the person's main home:

(b) **section EL 10**: property held by the person on revenue account:

(c) **section EL 11**: property held by certain persons and entities:

(d) **section EL 12**: property to which subpart DG (Expenditure related to use of certain assets) applies:

(e) **section EL 13**: property provided as employee accommodation.

Rules for certain entities

(6) The following sections modify the general rules in this subpart:

(a) **section EL 14** relating to the continuity rules for companies:

(b) **section EL 15** relating to transfers between companies in wholly-owned groups:

(c) **sections EL 16 to EL 19** relating to deductions for interest expenditure when a person borrows to invest in a residential land-rich entity.

Bright-line disposals of residential land

(7) **Section EL 20** applies when a person sells residential land within the bright-line period and has expenditure that relates to the land for which they are allowed a deduction as a cost of revenue account property. The section also provides for the treatment of the expenditure when the sale is made to an associated person.

Defined in this Act: amount, associated person, company, deduction, employee, income year, interest, loss, own, residential income, residential land, residential land-rich entity, residential portfolio, residential rental property, revenue account property, wholly-owned group of companies

EL 3 Definitions for this subpart

In this subpart,—

land sales provisions means sections CB 6A to CB 14 (which relate to amounts derived from disposals of land)

residential income means the following amounts that a person derives for an income year in relation to residential land:

(a) rental income which is the amount of income the person derives under sections CC 1 to CC 2 (which relate to amounts derived from the use of land) for the income year in relation to their residential portfolio:

(b) depreciation recovery income which is the amount that the person derives under section CG 1 (Amount of depreciation recovery income) for the income year in relation to their residential portfolio:

(c) an amount of net income that the person would have for the corresponding tax year if their only income were income under the land sales provisions from a disposal of property in their residential portfolio:

(d) an amount of net income that the person would have for the corresponding tax year if their only income were income referred to in **paragraphs (a) and (b)** in relation to residential land to which **section EL 4** does not apply because it is held on revenue account and falls within the exclusion set out in **section EL 10**

residential land-rich entity means—

(a) a close company, partnership, or look-through company if more than 50% of its assets by value are residential land, whether the land is owned directly or indirectly, *see* **section EL 19**:

(b) a trustee of a trust whose property includes residential rental property if more than 50% of the trust's assets by value are residential land, whether the land is owned directly or indirectly, *see* **section EL 19**

residential portfolio—

(a) means 1 or more residential rental properties that a person holds in a portfolio for an income year; and

(b) includes a residential rental property that the person has included in their portfolio, whether or not they retain ownership of the property, in the period that—

(i) starts at the beginning of the income year in which they first acquire a residential rental property that is included in their portfolio; and

(ii) ends on the last day of the income year in which they dispose of the last of the residential rental properties included in their portfolio; and

(c) does not include a residential rental property in relation to which a person is applying the rules on a property-by-property basis under **section EL 6**

residential rental property—

(a) means residential land for which a person who owns the land is allowed a deduction relating to the use or disposal of the land; and

(b) includes land that, for a time in an income year, is residential land.

Defined in this Act: acquire, amount, close company, deduction, depreciation recovery income, dispose, income, income year, land sales provisions, look-through company, net income, own, partnership, residential income, residential land, residential land-rich entity, residential portfolio, residential rental property, tax year, trustee

Allocation rules for residential rental property

EL 4 Allocation of deductions for loss-making residential rental properties

When this section applies

(1) This section applies for an income year when a person is allowed a deduction for expenditure or loss incurred in relation to 1 or more properties in their residential portfolio, excluding any amount of a deduction under section DB 23 (Cost of revenue account property).

Limited allocation

(2) The amount of the deduction that may be allocated to the income year must be no more than the amount of the person's residential income for the income year.

Excess amounts carried forward

(3) To the extent to which the amount of the person's deduction is more than their residential income, the excess amount is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives residential income; and

(c) added to the amount of the deduction for expenditure or loss referred to in **subsection (1)** for the later income year.

Relationship with sections EL 5, EL 6, and EL 7

(4) The application is modified by—

(a) **section EL 6** when a person chooses to apply the rules in this subpart on a property-by-property basis:

(b) **sections EL 5 and EL 7** when a person disposes of their residential portfolio or residential rental property, as applicable.

Defined in this Act: amount, deduction, dispose, income year, loss, residential income, residential portfolio, residential rental property

EL 5 When residential portfolios sold

When this section applies

(1) This section applies for an income year (the **current income year**) when a person—

(a) disposes of the last of the properties in their residential portfolio; and

(b) has an unused excess amount under **section EL 4(3)** relating to their portfolio.

Disposal of fully-taxed portfolio: excess amounts released

(2) If the person derives income under the land sales provisions for the current income year or for an earlier income year from the disposal of each of the properties in their residential portfolio, any unused excess amount relating to the portfolio is released from the application of the limited allocation rule in **section EL 4(2)** for the current income year. However, this subsection does not apply in relation to an unused excess amount transferred from another property, *see* **section EL 8**.

Disposal of incompletely-taxed portfolios: excess amounts carried forward

(3) If the person does not derive income under the land sales provisions for the current income year or for an earlier income year from the disposal of each of the properties in their residential portfolio, any unused excess amount relating to the portfolio—

(a) is an amount to which **section EL 4(3)** continues to apply for income years in which the person derives residential income; and

(b) is treated as a deduction referred to in **section EL 4(1)** that is transferred to another residential rental property for an income year in which the person derives residential income.

Basis of allocation

(4) For the purposes of **subsection (3)(b)**, it does not matter whether the allocation of the transferred amount is made on a portfolio basis or on a property-by-property basis.

Defined in this Act: amount, deduction, dispose, income, income year, land sales provisions, residential income, residential portfolio, residential rental property

EL 6 Choosing to apply rules on property-by-property basis

Choosing other basis for calculation

(1) For the purposes of **section EL 4**, and despite the references there and in the definition of **residential income** in **section EL 3** to residential portfolios, a person may choose to determine the amount of the deduction that may be allocated for an income year under **section EL 4(2)** in relation to a single property (**property A**), whether or not—

(a) they own residential rental properties other than property A:

(b) those other properties are included in a residential portfolio.

Property A: income and expenditure

(2) For the purposes of **section EL 4(3)**, both the income derived by the person and the expenditure or loss to which the deduction relates must relate solely to property A and to no other property of the person.

Property A: excess amounts carried forward

(3) An excess amount arising under **section EL 4(3)** in relation to property A is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives residential income from property A; and

(c) added to the amount of the deduction for expenditure or loss referred to in **section EL 4(1)** for the later income year.

Election requirements

(4) A person makes an election under **subsection (1)** by taking a tax position on that basis in their return of income for the income year in which the property becomes their residential rental property.

Effect of changes in tax positions

(5) The election remains in effect for income years in which the person continues to take the tax position but if the person changes their tax position, property A becomes a property included in a residential portfolio.

Transitional rule for property acquired before 2019–20 income year

(6) For the purposes of **subsection (4)**, for residential rental property held at the start of the 2019–20 income year, the person must make the election referred to in **subsection (1)** in the return of income for that income year.

Defined in this Act: amount, deduction, income, income year, loss, residential income, residential portfolio, residential rental property, return of income, tax position

EL 7 When property A sold

When this section applies

(1) This section applies for an income year when a person—

(a) has chosen to apply the rules in this subpart on a property-by-property basis under **section EL 6** to a particular property (**property A**); and

(b) disposes of property A, whether or not it is residential rental property for the person at the time of the disposal; and

(c) has an unused excess amount under **section EL 4(3)** relating to property A.

Taxed disposal of property A: excess amounts released

(2) If the person derives income under the land sales provisions from the disposal of property A, any unused excess amount relating to property A is released from the application of the limited allocation rule in **section EL 4(3)** for the income year. However, this subsection does not apply in relation to an unused excess amount transferred from another property, *see* **section EL 8**.

Non-taxed disposal of property A: excess amounts carried forward

(3) If the person disposes of property A but does not derive income under the land sales provisions from the disposal, any unused excess amount relating to property A—

(a) is an amount to which **section EL 4(3)** continues to apply for income years in which the person derives residential income; and

(b) is treated as a deduction referred to in **section EL 4(1)** that is transferred to another residential rental property for an income year in which the person derives residential income.

Basis of allocation

(4) For the purposes of **subsection (3)(b)**, it does not matter whether the allocation of the transferred amount is made on a portfolio basis or on a property-by-property basis.

Defined in this Act: amount, deduction, dispose, income, income year, land sales provisions, residential income, residential rental property

EL 8 Treatment of previously transferred amounts on fully-taxed disposals

When this section applies: transfers to portfolio properties

(1) This section applies when—

(a) an unused excess amount relating to a residential rental property or residential portfolio is treated as transferred under **section EL 5(3)(b) or EL 7(3)(b)** to a property that is included in another residential portfolio of a person; and

(b) the person disposes of the last of the properties in their portfolio, having derived income from each disposal.

When this section also applies: transfers to properties

(2) This section also applies when—

(a) an unused excess amount relating to a residential rental property or residential portfolio is treated as transferred under **section EL 5(3)(b) or EL 7(3)(b)** for use in relation to another of a person's residential rental properties (**property B**) in relation to which the person has chosen under **section EL 6** to apply the rules on a property-by-property basis; and

(b) the person disposes of property B, whether or not it is residential rental property for the person at the time of the disposal, and derives income for the income year from its disposal.

Treatment of transferred excess amounts

(3) The amount that would otherwise be released under **section EL 5(2) or EL 7(2)** is reduced by an amount equal to the total unused excess amount transferred.

Defined in this Act: amount, dispose, income, income year, residential portfolio, residential rental property

Exclusions from rules

EL 9 Main home exclusion

General rule

(1) **Section EL 4** does not apply to residential land of a person for an income year if more than 50% of the land is used for most of the income year by the person as their main home.

Beneficiaries

(2) **Subsection (1)** applies to trust property when—

(a) more than 50% of the land is used for most of the income year by a beneficiary of the trust as their main home; and

(b) a principal settlor of the trust does not have a separate main home.

Defined in this Act: income year, principal settlor, residential land

EL 10 Exclusion for land held on revenue account

Land acquired for purposes of business relating to land

(1) **Section EL 4** does not apply to residential land of a person that, when disposed of, will give rise to income of the person under section CB 7 (Disposal: land acquired for purposes of business relating to land).

Income under land sales rules

(2) **Section EL 4** does not apply to residential land of a person that, when disposed of, will give rise to income of the person under the land sales provisions other than section CB 7, regardless of when the disposal occurs.

Notification

(3) In order for land to be excluded under **subsection (2)**, the person must—

(a) notify the Commissioner that the land is held on revenue account by the date for filing their return of income for the later of—

(i) the income year in which they acquire the land:

(ii) the income year in which the land becomes land that, when disposed of, will give rise to income under the land sales provisions:

(iii) for land that is held at the start of the 2019–20 income year and is land that, when disposed of, will give rise to income under the land sales provisions, the 2019–20 income year:

(b) be able to identify separately the deductions relating to the land.

When separate identification not required

(4) **Subsection (3)(b)** does not apply to a person if all of their residential land, other than land excluded under **subsection (1) and sections EL 9, EL 12, and EL 13**,—

(a) has given rise to income of the person under the land sales provisions:

(b) will give rise to income under the land sales provisions, regardless of when the disposal occurs, and they have notified the Commissioner as described in **subsection (3)(a)**.

Defined in this Act: acquire, Commissioner, deduction, dispose, income, income year, land sales provisions, notify, residential land

EL 11 Exclusion for property held by certain persons and entities

Section EL 4 does not apply to residential land owned by—

(a) a company other than a close company:

(b) a person or entity listed in schedule 36 (Government enterprises).

Defined in this Act: close company, company, residential land

EL 12 Exclusion for mixed-use assets

Section EL 4 does not apply to residential land of a person for an income year when the land is an asset referred to in section DG 3 (Meaning of asset for this subpart).

Defined in this Act: asset, income year, residential land

EL 13 Exclusion for property provided as employee accommodation

Accommodation connected with employment or service

(1) **Section EL 4** does not apply to residential land of a person that is property that a person provides to their employees or other workers for accommodation in connection with their employment or service.

Associated employees or workers

(2) **Subsection (1)** does not apply if the employees or other workers are associated with the person, unless it is necessary for the person to provide the accommodation because of the nature or remoteness of a business carried on by them.

Defined in this Act: associated person, business, employee, employment, residential land

Application of rules by certain entities

EL 14 Continuity rules for companies

Despite **sections EL 4, EL 5, ~~and EL 7~~ EL 7, and EL 16**, a company may not allocate an unused excess amount to a later income year if sections IA 5 and IP 3 (which relate to tax losses carried forward) would apply to restrict the carrying forward of the amount to the later income year, treating the amount as if it were an unused tax loss component.

Defined in this Act: amount, company, income year, tax loss component

EL 15 Transfers between companies in wholly-owned groups

Transferring unused amounts

(1) If a company (**company A**) that is part of a wholly-owned group of companies has an unused excess amount carried forward under **section EL 4(3), EL 5(3), or EL 7(3)** for an income year, the company may transfer some or all of the excess amount to another company (**company B**) in the group.

Company B's deduction

(2) The amount transferred is treated as a deduction for expenditure or loss referred to in **section EL 4(1)** of company B in relation to a residential rental property of company B for an income year in which company B derives residential income.

When transfers made

(3) The transfer of an excess amount is treated as made when both company A and company B take tax positions on that basis in their returns of income for the relevant income year.

Defined in this Act: amount, company, deduction, income year, residential income, residential rental property, return of income, wholly-owned group of companies

Interposed entities

EL 16 Interests in residential land-rich entities

When this section applies

(1) This section applies when a person—

(a) has borrowed money and used it to acquire an interest in an entity that is, for an income year, a residential land-rich entity; and

(b) has interest expenditure for the income year in relation to the amount borrowed for which they are allowed a deduction.

Excess amounts carried forward

(2) To the extent to which the portion of the person's interest expenditure calculated under **section EL 17(1)** is more than their share of net residential income calculated under **section EL 17(3)**, the excess amount is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives income that is—

(i) residential income:

(ii) a distribution from the entity to the extent to which the distribution relates to residential land; and

(c) added to the amount of the interest expenditure referred to in **subsection (1)(b)** for the later income year.

Modifications

(3) The application of this section and **section EL 17** is modified by **section EL 18** when the entity is a partnership or a look-through company.

Defined in this Act: acquire, amount, deduction, income, income year, interest, look-through company, partnership, residential income, residential land, residential land-rich entity

EL 17 Calculations for section EL 16

Calculation of interest expenditure

(1) For the purposes of **section EL 16(2)**, the person's interest expenditure is calculated using the formula—

applied capital percentage × interest on borrowings.

Definition of items

(2) In the formula in **subsection (1)**,—

(a) **applied capital percentage** is the percentage of the entity's capital, as at the end of the income year, that it has used to acquire residential rental property:

(b) **interest on borrowings** is the amount of expenditure on interest that the person has incurred for the income year in relation to the amount borrowed.

Calculation of share of net residential income

(3) For the purposes of **section EL 16(2)**, the person's share of net residential income is calculated using the formula—

person's interest × entity's net residential income.

Definition of items

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

(a) **person's interest** is, as applicable,—

(i) when the entity is a company, the person's voting interest in the company measured at the end of the income year:

(ii) when the entity is the trustee of a trust, the value of the person's interest in residential rental property that is trust property as a percentage of the trust's assets, measured at the end of the income year:

(b) **entity's net residential income** is the amount of the net income for the corresponding tax year that the entity would have in the absence of **section EL 4**, if the only income derived by the entity were residential income.

Defined in this Act: acquire, amount, company, income, income year, interest, net income, residential income, residential rental property, tax year, trustee, voting interest

EL 18 Modifications when entities transparent

For the purposes of **sections EL 16 and EL 17**, if the entity is a partnership or a look-through company,—

(a) the person's residential income for the income year is treated as their share of net residential income under **section EL 17(3)** unless **paragraph (b)(ii)** applies to modify the calculation of net residential income:

(b) when the entity has chosen under **section EL 6** to apply the rules in this subpart on a property-by-property basis for a particular property (**property A**), the formulas in **section EL 17** are modified as follows:

(i) the item **applied capital percentage** in **section EL 17(2)(a)** is read as if the residential rental property were property A; and

(ii) the residential income derived by the person for the income year from property A is treated as their share of net residential income under **section EL 17(3)**.

Defined in this Act: income year, look-through company, partnership, residential income, residential rental property

EL 19 Valuation of assets

Methods of valuation

(1) For the purposes of **section EL 17** and the definition of **residential land-rich entity** in **section EL 3**, an asset of a person or entity is valued at the end of an income year using,—

(a) for land, including an improvement to land, the amount set out in **subsection (2)**:

(b) for property with an adjusted tax value, its adjusted tax value:

(c) for other property, its market value.

Valuation of land

(2) For the purposes of **subsection (1)(a)**, the value of land is the following amount, as applicable:

(a) the amount established by the later of—

(i) the land's most recent capital value or annual value as set by a local authority; or

(ii) either the cost of the land on acquisition or, if the transaction involves an associated person, its market value:

(b) for a leasehold estate in land, the market value of the land which the person may establish through a valuation made by a registered valuer no more than 3 years before the end of the income year.

Defined in this Act: adjusted tax value, amount, associated person, income year, land, leasehold estate, local authority, residential land-rich entity

Allocation rules for bright-line disposals of land

EL 20 Allocation of deductions related to bright-line disposals of residential land

When this section applies

(1) This section applies for an income year when a person—

(a) derives income under section CB 6A (Disposal within 5 years: bright-line test for residential land); and

(b) is allowed a deduction under section DB 23 (Cost of revenue account property) in relation to the land.

Limited allocation

(2) The amount of the deduction that may be allocated to the income year must be no more than the amount calculated using the formula—

bright-line income + net income from land.

Definition of items in formula

(3) In the formula,—

(a) **bright-line income** is the amount of income that the person derives for the income year under section CB 6A:

(b) **net income from land** is the amount of net income that the person would have for the corresponding tax year if their only income were income under sections CB 6 to CB 14 (which relate to amounts derived from the disposals of land).

Excess amounts carried forward

(4) To the extent to which the amount of the person's deduction is more than the amount calculated under **subsection (2)**, the excess amount is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives—

(i) income referred to in **subsection (1)(a)**:

(ii) income under sections CB 6 to CB 14; and

(c) added to the amount of the deduction referred to in **subsection (1)(b)** for the later income year.

Disposals to associated persons

(5) **Subsections (6) and (7)** apply when a person disposes of land described in **subsection (1)(a)** to an associated person.

Limited allocation for associated disposals

(6) Despite **subsection (2)**, the amount of the person's deduction for the income year of the disposal must be no more than the amount of the bright-line income referred to in **subsection (3)(a)** that they derive from the disposal.

Expenditure of associated persons

(7) To the extent to which the amount of the person's deduction under **subsection (6)** is more than the bright-line income derived by the person, the excess amount is treated as expenditure of the associated person incurred in acquiring the land.

Defined in this Act: amount, associated person, deduction, dispose, income, income year, net income residential land, tax year

(1B) **Subsection (1)** applies for the 2019–20 and later income years.

(2) **Section EL 20**, as inserted by **subsection (1)**, applies to a person's disposal of residential land if,—

(a) for a disposal within 2 years to which section CB 6A(1) as it was before the amendment made by section 6 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 applies, the date on which the person first acquires an estate or interest in the residential land falls in the period that starts on 1 October 2015 and ends on 28 March 2018:

(b) for a disposal within 5 years to which section CB 6A applies, the date on which the person first acquires an estate or interest in the residential land is on or after 29 March 2018.

52 Section EW 5 amended (What is an excepted financial arrangement?)

(1) After section EW 5(11B), insert:

Assignment and return of emissions units as part of loan

(11C) An arrangement for the assignment of a pre-1990 forest land emissions unit by the holder to a person who is not an associated person (the **lender**) and for the later assignment of the same or another New Zealand emissions unit by the lender to the holder, as part of a financial arrangement that is a loan to the holder by the lender, is an excepted financial arrangement that is subject to **section EW 52B**.

(2) **Subsection (1)** applies for arrangements entered on or after the beginning of the 2018–19 income year.

53 New section EW 52B inserted (Excepted financial arrangements involving pre-1990 forest land emissions units)

(1) After section EW 52, insert:

EW 52B Excepted financial arrangements involving pre-1990 forest land emissions units

When this section applies

(1) This section applies to an arrangement that is an excepted financial arrangement under **section EW 5(11C)** and under which—

(a) the holder (the **unit holder**) of a pre-1990 forest land emissions unit (the **original unit**) is required to make an assignment of the original unit (the **security assignment**) to a person who is not an associated person (the **lender**); and

(b) the lender is required to make a later assignment (the **security return**) of a New Zealand emissions unit (the **returned unit**) to the unit holder.

Unit holder treated as continuing to hold pre-1990 forest land emissions unit

(2) The unit holder is treated as continuing to hold a pre-1990 forest land emissions unit for the period beginning with the day on which the arrangement begins and ending with the day given by **subsection (3)** for the security assignment, subject to **subsections (4) and (5)**.

Timely security return

(3) **Subsection (4)** applies if the security return occurs on or before the day that is the earlier of—

(a) the day on which the security return is required under the arrangement:

(b) the day on which the arrangement comes to an end.

Effect of timely security return

(4) If the unit holder receives a returned unit under the arrangement on or before the day given by **subsection (3)**,—

(a) the returned unit is treated as being the original unit; and

(b) the unit holder is treated as continuing to hold the original unit for the period beginning with the day on which the arrangement begins and ending with the day of the security return; and

(c) the original unit and the returned unit are treated as having a value for the unit holder equal to the cost of the original unit for the unit holder immediately before the arrangement begins; and

(d) the original unit and the returned unit are treated as having a value for the lender of—

(i) the cost of the original unit for the unit holder immediately before the arrangement begins, for the security assignment and the security return:

(ii) zero, for an assignment of the original unit other than the security return.

Effect of failure to make timely security return

(5) If the unit holder does not receive a returned unit under the arrangement on or before the day given by **subsection (3)**,—

(a) the original unit is treated as being assigned to the lender on the day of the security assignment; and

(b) the unit holder is treated as ceasing to hold the original unit from the day of the security assignment; and

(c) the original unit is treated as having a value for the unit holder and the lender at the time of the security assignment equal to the market value of the original unit for the unit holder immediately before the arrangement begins.

Relationship with section ED 1

(6) **Subsections (4)(c) and (d) and (5)(c)** override sections EA 1(4)(c), and ED 1 (which relate to the valuation of excepted financial arrangements).

Defined in this Act: arrangement, associated person, emissions unit, excepted financial arrangement, New Zealand emissions unit, pre-1990 forest land emissions unit

(2) **Subsection (1)** applies for arrangements entered on or after the beginning of the 2018–19 income year.

54 Section EY 30 amended (Transitional adjustments: life risk)

(1) Replace section EY 30(5)(b) with:

(b) for a life insurance policy for which the premium is set for a continuous period (the **continuous rate period**) beginning before the grandparenting start day, and for which there is no increase in the premium during the continuous rate period other than an increase meeting the requirements of **subsection (5BA)**, the period that—

(i) starts on the grandparenting start day; and

(ii) ends on the later of the day that is the last day of the continuous rate period and whichever day described in paragraph (c)(i) and (ii) is earlier:

(2) After section EY 30(5) insert:

Requirements under subsection (5)(b) for premium increase

(5BA) The requirements referred to in **subsection (5)(b)** for an increase in the premium under a life insurance policy in a year in the continuous rate period are that—

(aa) the increase is made under an agreement entered into before the grandparenting start day; and

(a) the increase arises from a policy benefit that produces an increase, under a formula in the agreement, in the sum assured under the policy; and

(b) the increase in the sum assured under the policy during the year does not exceed the greater of 3% and the percentage change in the consumer price index during the period consisting of the last 4 quarters preceding the year.

(2B) In section EY 30, list of defined terms, insert "life insurance policy", "premium", "quarter", and "year".

(3) **Subsections (1) and (2)** apply for a person for the income year that includes 1 July 2010 and later income years, except for an income year for which the person has, before the date of Royal assent to this Act, taken a tax position that is inconsistent with the amendments made by **subsections (1) and (2)**.

55 Section FE 4 amended (Some definitions)

In section FE 4, in the definition of **excess debt outbound company**, replace "section FE 2(1)(a) to (d)" with "section FE 2(1)(a) to (db)".

56 Section HC 27 amended (Who is a settlor?)

(1) After section HC 27(5), insert:

Beneficiary lending to trustee

(6) When a trustee of a trust owes an amount to a beneficiary of the trust, the beneficiary does not become a settlor of the trust under subsection (2)(a) in an income year of the trustee solely as a result of being owed the amount if—

(a) the trustee pays to the beneficiary in the income year interest on the amount owing at a rate equal to or greater than the prescribed rate of interest:

(b) the amount owing at the end of the income year is not more than $25,000.

(2) In section HC 27, in the list of defined terms, insert "income year", "interest", and "prescribed rate of interest".

56B Section LB 7 amended (Tax credits related to person service rehabilitation payments: providers)

Replace section LB 7(2), other than the heading, with:

(2) For the tax year corresponding to the income year in which the payment falls,—

(a) the provider has a tax credit if the payment is not a reimbursement payment referred to in subsection (5):

(b) the recipient of the payment has a tax credit if the payment is a reimbursement payment referred to in subsection (5).

57 New section MB 12B inserted (Family scheme income from trusts, not being beneficiary income, and where recipient not settlor)

After section MB 12, insert:

MB 12B Family scheme income from trusts, not being beneficiary income, and where recipient not settlor

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when—

(a) the person receives a payment from a trust in the income year; and

(b) the payment is not beneficiary income of the person; and

(c) the person is not the settlor of the trust.

Amounts included in family scheme income

(2) The amount of the payment is included in the family scheme income of the person for the income year.

Exclusion

(3) Despite **subsection (2)**, the Commissioner may determine the circumstances in which a payment from a trust should be excluded for the purposes of calcu-

lating family scheme income. If a person receives a payment from a trust in circumstances in which the Commissioner has determined that a payment should be excluded for the purposes of calculating family scheme income, the amount of the payment is not included in the family scheme income of the person for the income year.

Defined in this Act: amount, beneficiary income, Commissioner, family scheme income, income year, pay, settlor

57B Section MB 13 amended (Family scheme income from other payments)

After section MB 13(2)(kb), insert:

(kc) a payment under section 386AAG or 386B of the Oranga Tamariki Act 1989:

58 New section OB 78B inserted (Co-operative companies attaching imputation credits to cash distributions to groups)

After section OB 78, insert:

OB 78B Co-operative companies attaching imputation credits to cash distributions to groups

Election

(1) On meeting the requirements of **subsection (2)**, a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to the members of a group of the company's shareholders and be denied a deduction for the payment by section DV 18 (Statutory producer boards and co-operative companies).

Requirements

(2) A co-operative company may make an election under **subsection (1)** if—

(a) the company is registered under the Co-operative Companies Act 1996; and

(b) the distribution is made to all the persons who are members of a group of shareholders at a time during the income year; and

(c) the company's constitution permits a distribution to be made to the members of the group; and

(d) the amount of the distribution to a member of the group is based on the payments for the income year to or by the member for produce transactions as a proportion of the total amount of payments for the income year to or by the members of the group for all produce transactions; and

(e) the company would, in the absence of this section, have a deduction for some or all of the distribution under subpart HE and section DV 19 (which relate to mutual associations) or another provision of the Act; and

(f) no other election for a cash distribution is made in the income year; and

(g) the company notifies the Commissioner of the election as required by section OB 82(3).

Total credit attached

(3) The total amount of imputation credit attached to the distribution is calculated using the formula—

total net dividend × tax rate ÷ (1 − tax rate).

Definition of items in formula

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

(a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the income year.

Shareholder's credit

(5) The amount of a shareholder's share of the imputation credit attached as described in **subsection (3)** is calculated using the formula—

shareholder's distribution ÷ total distribution × total imputation credit attached.

Definition of items in formula

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

(a) **shareholder's distribution** is the amount that is the shareholder's share of the distribution, excluding the amount of imputation credit:

(b) **total distribution** is the amount of the total distribution paid, excluding the amount of imputation credit:

(c) **total imputation credit attached** is the total amount of imputation credit attached to the distribution calculated under **subsection (3)**.

Relationship with section OZ 15

(7) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify **subsection (3)**.

Defined in this Act: amount, Commissioner, co-operative company, deduction, dividend, ICA company, imputation credit, income tax. income year, notify, pay, produce transactions, shareholder

59 Section OB 82 amended (When and how co-operative company makes election)

(1) In section OB 82(1), words before paragraph (a), replace "section OB 78 or OB 79" with "section OB 78, **OB 78B**, or OB 79".

(2) In section OB 82(3), after "subsection (1)(a)", insert "or **(b)**".

60 Section OZ 15 amended (Attaching imputation credits and notional distributions: modifying amounts)

In section OZ 15(4), replace "section OB 78(3) (Co-operative companies attaching imputation credits to cash distributions)" with "sections OB 78(3) and **OB 78B(3)** (which relate to co-operative companies making cash distributions)".

61 Section RD 7B replaced (Treatment of certain benefits under employee share ~~agreements~~ schemes)

(1) Replace section RD 7B with:

RD 7B Treatment of employee share schemes

When this section applies

(1) This section applies for employees or a former employee in relation to benefits under an employee share scheme, if—

(a) an employer has irrevocably chosen to withhold and pay tax for a benefit for an employee under the scheme in accordance with **subsection (3)**; or

(b) an employer chooses to withhold and pay tax for a benefit for an employee under the scheme in accordance with **subsection (4)**.

Irrevocable obligation

(2) An employer who has made an irrevocable election described in **subsections (1)(a) and (3)** must comply with **subsection (4)(a) to (c)** for—

(a) the relevant benefit and employee under the scheme:

(b) benefits offered or provided to the employee in replacement of the relevant benefit.

Irrevocable obligation: form

(3) For the purposes of **subsection (1)(a)**, an employer has irrevocably chosen to withhold and pay tax for a benefit for an employee, if it is a term of the offer of the benefit, or of the scheme under which the benefit is provided, that the employer must withhold and pay tax under this section.

Withholding and paying

(4) For the purposes of **subsection (1)(b)**, an employer chooses to withhold and pay tax for some benefits for some employees by—

(a) calculating the amounts of tax that must be withheld for the relevant benefits and employees, and paying the amounts to the Commissioner as described in section RD 4(1); and

(b) including the amounts in the employer's employment income information under subpart 3C of the Tax Administration Act 1994, treating the relevant ESS deferral date as the relevant payday; and

(c) making the disclosure referred to in **paragraph (b)** within the time required under section RD 6(3)(a).

Defined in this Act: amount, amount of tax, Commissioner, employee, employee share scheme, employment income information, ESS deferral date, pay, payday, tax

(2) **Subsection (1)** applies for the 2019–20 and subsequent income years.

61B Section RD 64 amended (ESCT rules and their application)

(1) Replace section RD 64(1)(c) with:

(c) subparts 3C and 3D, sections 22AA, 47, 124H to 124R, Part 9, and schedules 4 and 5 of the Tax Administration Act 1994.

(2) In **section RD 64(1)(c)**, replace "124H to 124R" with "124H to 124K, 124O to 124Q".

62 Section RE 21 amended (Basis for payment of RWT)

(1) In the heading to section RE 21(2), replace "*Interest of more than $500*" with "*RWT of $500 or more*".

(2) In section RE 21(2), replace "more than $500" with "$500 or more".

(3) In the heading to section RE 21(3), replace "*Interest*" with "*RWT*".

~~63 Section RF 2B amended (Non-resident financial arrangement income: outline and concepts)~~

~~In section RF 2B, in the list of defined terms, delete "approved issuer".~~

64 Section RF 2C amended (Meaning of non-resident financial arrangement income)

In section RF 2C, in the list of defined terms, delete "approved issuer".

64B Section RM 2 amended (Refunds for overpaid tax)

(1) In section RM 2(1A)(b), after "original assessment", insert "or an amended assessment referred to in **subsection (3)**".

(2) In section RM 2(1)(ab), after "amended assessment", insert "other than an amended assessment referred to in **subsection (3)**".

(3) After section RM 2(1B), insert:

Amounts arising on treatment of some backdated payments as exempt income

(3) **Subsection (1A)** applies for an amended assessment arising from the treatment of a payment as being exempt income under **section CZ 36** (Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years).

65 Section YA 1 amended (Definitions)

(1) This section amends section YA 1.

(2) In the definition of **dispose**, in paragraph (a), replace "and CB 22" with "CB 22, and **subpart EL**".

(3B) In the definition of **hire purchase agreement**, replace paragraph (d) with:

(d) does not include an agreement of a kind described in paragraph (a)(i) or (a)(ii) under which property in the goods passes absolutely, to the person who agrees to purchase the goods, at the time of the agreement or at the time of delivery of the goods or at any time before delivery of the goods; and

(3C) Insert, in appropriate alphabetical order:

land sales provisions is defined in **section EL 3** (Definitions for this subpart) for the purposes of **subpart EL** (Allocation of deductions for excess residential land expenditure)

(4) In the definition of **principal settlor**, replace "that section" with "that section and **section EL 9** (Main home exclusion)".

(4B) Insert, in appropriate alphabetical order:

residential income is defined in **section EL 3** (Definitions for this subpart) for the purposes of **subpart EL** (Allocation of deductions for excess residential land expenditure)

(5) Insert, in appropriate alphabetical order:

residential land-rich entity is defined in **section EL 3** (Definitions for this subpart) for the purposes of **sections EL 16 to EL 19** (which relate to the calculation of interests in interposed entities)

(5B) Insert, in appropriate alphabetical order:

residential portfolio is defined in **section EL 3** (Definitions for this subpart) for the purposes of **subpart EL** (Allocation of deductions for excess residential land expenditure)

(6) Insert, in appropriate alphabetical order:

residential rental property is defined in **section EL 3** (Definitions for this subpart) for the purposes of **subpart EL** (Allocation of deductions for excess residential land expenditure)

66 Minor nomenclature-related amendments to Income Tax Act 2007

The Income Tax Act 2007 is amended as set out in **schedule 1**.

Amendments to Tax Administration Act 1994

67 Tax Administration Act 1994 amended

Sections 67B to 74 amend the Tax Administration Act 1994.

67B Section 3 amended (Interpretation)

(1) This section amends section 3(1).

(2) Insert, in appropriate alphabetical order:

integrity of the tax system is defined in **section 6(2)**

(3) Insert, in appropriate alphabetical order:

obvious error is defined in **section 6G** for the purposes of **Part 2, subpart 2B**

67C New subpart heading inserted (Subpart 2A—Commissioner and department)

Before section 5, insert as a subpart heading, "Subpart 2A—Commissioner and department".

67D New section 5B inserted (Commissioner of Inland Revenue)

After section 5, insert:

5B Commissioner of Inland Revenue

The person appointed as chief executive of the department under the State Sector Act 1988 is designated the Commissioner of Inland Revenue.

67E Sections 6, 6A, and 6B replaced

Replace sections 6, 6A, and 6B with:

Subpart 2B—Care and management of tax system

Responsibilities and duties

6 Responsibility of Ministers and officials to protect integrity of tax system

Best endeavours to protect integrity of tax system

(1) Every Minister and every officer of any government agency having responsibilities under this Act or any other Act in relation to the collection of tax and for the other functions under the Inland Revenue Acts must at all times use their best endeavours to protect the integrity of the tax system.

Meaning of integrity of tax system

(2) Without limiting its meaning, the **integrity of the tax system** includes—

(a) the public perception of that integrity; and

(b) the rights of persons to have their liability determined fairly, impartially, and according to law; and

(c) the rights of persons to have their individual affairs kept confidential and treated with no greater or lesser favour than the tax affairs of other persons; and

(d) the responsibilities of persons to comply with the law; and

(e) the responsibilities of those administering the law to maintain the confidentiality of the affairs of persons; and

(f) the responsibilities of those administering the law to do so fairly, impartially, and according to law.

6A Commissioner's duty of care and management

Care and management

(1) The Commissioner is charged with the care and management of the taxes covered by the Inland Revenue Acts and with such other functions as may be conferred on the Commissioner.

Highest net revenue practicable within the law

(2) In collecting the taxes committed to the Commissioner's charge, and despite anything in the Inland Revenue Acts, it is the duty of the Commissioner to collect over time the highest net revenue that is practicable within the law having regard to—

(a) the resources available to the Commissioner; and

(b) the importance of promoting compliance, especially voluntary compliance, by all persons with the Inland Revenue Acts; and

(c) the compliance costs incurred by persons.

6B Directions to Commissioner

Order for directions

(1) The Governor-General may, by Order in Council and with due regard to this subpart and the provisions of the State Sector Act 1988 and the Public Finance Act 1989, issue directions to the Commissioner in relation to the administration of the Inland Revenue Acts.

Limitations

(2) **Subsection (1)** does not authorise the giving of directions concerning the tax affairs of individual persons or the interpretation of tax law.

Order published

(3) Every order made under **subsection (1)** must, as soon as practicable after it is made,—

(a) be published in a publication chosen by the Commissioner; and

(b) be laid before the House of Representatives together with any accompanying statement of the reasons for the order and any advice of the Commissioner in relation to it.

Binding after 7 days

(4) An order made under **subsection (1)** becomes binding on the Commissioner on the 7th day after the date on which it is made.

Remedial powers

6C Powers to modify provisions of Inland Revenue Acts

Nature of remedial powers

(1) **Sections 6D to 6G** set out remedial powers that provide for modifications to, and exemptions from, provisions of the Inland Revenue Acts to apply in certain circumstances and for a limited time. The powers are in addition to **sections 6 and 6A**.

Purpose of remedial powers

(2) The purpose of **sections 6D to 6G** is to provide flexibility to temporarily remedy or mitigate the effect of a provision of the Inland Revenue Acts by making a modification or granting an exemption when it is reasonably necessary—

(a) due to an obvious error in the provision:

(b) to give effect to the intended purpose or object of the provision, to resolve ambiguity, or to reconcile inconsistencies.

General application

(3) A modification or exemption applies generally unless it is expressly stated that it applies only to a particular class of persons or circumstances.

Optional application

(4) Despite **subsection (3)**, a person to whom a modification or exemption is available may choose whether or not to apply the modification or exemption by the means set out in the modification or exemption under **section 6D or 6E**, as applicable.

Effect of not applying modification or exemption

(5) If a person chooses not to apply a modification or exemption, the law applies as if the modification or exemption did not exist in relation to the person.

6D Modifications made by Order in Council

Orders in Council

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, modify the application of the Inland Revenue Acts by providing that a provision of the Inland Revenue Acts does not apply or applies with conditions.

Content of modifications

(2) A modification made under **subsection (1)**—

(a) must specify a period for which the modification applies; and

(b) must, despite **section 6C(3)**, allow a person to whom the modification is available to choose whether or not to apply the modification by means set out in the modification; and

(c) may—

(i) be subject to terms and conditions:

(ii) state whether the modification applies generally or is limited to a particular class of persons or circumstances:

(iii) provide for transitional, savings, and related matters; and

(d) may be made by—

(i) stating an alternative means of complying with the provision:

(ii) substituting a discretionary power to be exercised by the Commissioner.

Application periods for modifications

(3) For the purposes of **subsection (2)(a)**, a period for which a modification applies—

(a) must end no later than the end of the second income year after the income year corresponding to the tax year in which the modification comes into force; and

(b) may include a period before the date on which the modification comes into force, but any period of retrospective application must not extend back more than 5 income years before the income year corresponding to the tax year in which the modification comes into force; and

(c) subject to **paragraph (b)**, may include a period before the date on which this section comes into force.

Opt-out or opt-in modifications permitted

(4) For the purposes of **subsection (2)(b)**, a modification may provide that it applies to a person to whom it is available—

(a) unless the person chooses not to apply it; or

(b) only if the person chooses to apply it.

Minister's recommendations

(5) Before making a recommendation referred to in **subsection (1)**, the Minister of Revenue must be satisfied that—

(a) the modification is reasonably necessary to do 1 or more of the following:

(i) to remedy or mitigate the effect of an obvious error in a provision of the Inland Revenue Acts:

(ii) to give effect to the intended purpose or object of a provision of the Inland Revenue Acts, or to resolve ambiguity:

(iii) to reconcile an inconsistency between certain provisions of the Inland Revenue Acts, or between the relevant provision and an administrative practice of the Commissioner; and

(b) the modification does not materially affect the intended scope or effect of the provisions to which it applies; and

(c) the modification is not inconsistent with the intended purpose or object of the relevant provision; and

(d) the modification is the most appropriate way of addressing or resolving the issue at the time; and

(e) the extent of the modification is not broader than is reasonably necessary to address or resolve the issue that gave rise to it; and

(f) for a modification that applies to a person unless they choose not to apply it, the person has a reasonable opportunity to choose not to apply it; and

(g) a consultative process has been undertaken as described in **section 6F**, unless the Minister has dispensed with the consultative process under **section 6F(3)**; and

(h) making the modification will not, in substance, have the effect of extending the period for which a modification previously made under this section, or an exemption previously granted under **section 6E**, applies.

Publication of modifications

(6) The Minister's reasons for recommending a modification, and an explanation of the way in which the modification complies with this section, must be published together with the modification.

6E Exemptions granted by Commissioner

Exemptions

(1) Subject to **subsection (2)**, the Commissioner may grant an exemption from a provision of the Inland Revenue Acts if the Commissioner is satisfied that the exemption is reasonably necessary to do 1 or more of the following:

(a) to remedy or mitigate the effect of an obvious error in a provision of the Inland Revenue Acts:

(b) to give effect to the intended purpose or object of a provision of the Inland Revenue Acts, or to resolve ambiguity:

(c) to reconcile an inconsistency between certain provisions of the Inland Revenue Acts, or between the relevant provision and an administrative practice of the Commissioner.

Limitations

(2) The Commissioner may grant the exemption only if the Commissioner is satisfied that—

(a) the exemption—

(i) does not materially affect the intended scope or effect of the provisions to which it applies; and

(ii) is not inconsistent with the intended purpose or object of the relevant provision; and

(iii) has no, or has only negligible, fiscal implications for the Crown; and

(iv) is the most appropriate way of addressing or resolving the issue at the time; and

(b) the extent of the exemption is not broader than is reasonably necessary to address or resolve the issue that gave rise to it; and

(c) for an exemption that applies to a person unless they choose not to apply it, the person has a reasonable opportunity to choose not to apply it; and

(d) a consultative process has been undertaken as described in **section 6F**, unless the Commissioner has dispensed with the consultative process under **section 6F(3)**; and

(e) granting the exemption will not, in substance, have the effect of extending the period for which a modification previously made under **section 6D**, or an exemption previously granted under this section, applies.

Content of exemptions

(3) An exemption made under **subsection (1)**—

(a) must specify a period for which the exemption applies; and

(b) must, despite **section 6C(3)**, allow a person to whom the exemption is available to choose whether or not to apply the exemption by means set out in the exemption; and

(c) may—

(i) include terms and conditions as the Commissioner thinks fit:

(ii) state whether the exemption applies generally or is limited to a particular class of persons or circumstances:

(iii) provide for transitional, savings, and related matters.

Application periods for exemptions

(4) For the purposes of **subsection (3)(a)**, a period for which an exemption applies—

(a) must end no later than the end of the second income year after the income year corresponding to the tax year in which the exemption comes into force; and

(b) may include a period before the date on which the exemption comes into force, but any period of retrospective application must not extend back further than the start of the income year corresponding to the tax year in which the exemption comes into force; and

(c) subject to **paragraph (b)**, may include a period before the date on which this section comes into force.

Opt-out or opt-in exemptions permitted

(5) For the purposes of **subsection (3)(b)**, an exemption may provide that it applies to a person to whom it is available—

(a) unless the person chooses not to apply it; or

(b) only if the person chooses to apply it.

Publication of exemptions

(6) The Commissioner's reasons for granting an exemption, and an explanation of the way in which the exemption complies with this section, must be published together with the exemption.

Status of exemptions

(7) An exemption is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

6F Consultation on proposed modifications and exemptions

Consultative process

(1) Before the Minister of Revenue recommends that a modification be made under **section 6D**, or the Commissioner grants an exemption under **section 6E**, a consultative process must be undertaken that includes the distribution, to persons or representatives of persons that it is considered reasonable to consult for the particular purpose, of—

(a) the proposed modification or exemption, as applicable; and

(b) an explanation of the way in which, as applicable,—

(i) the modification would comply with the requirements of **section 6D(5)**:

(ii) the exemption would comply with the requirements of **section 6E(2)**.

Period of consultation

(2) The consultative process must provide a period of consultation of at least 6 weeks.

Cases of urgency

(3) Despite **subsections (1) and (2)**, the Minister or Commissioner, as applicable, may, if satisfied that a case of urgency exists, either reduce the period of consultation or dispense with the consultative process in relation to a modification or an exemption.

6G Meaning of obvious error

For the purposes of this subpart, **obvious error** means an error of a type that arises only if—

(a) the intended purpose or object of the relevant provision is clear; and

(b) the intended purpose or object cannot be carried into effect by the relevant provision; and

(c) the substance of the provision that Parliament would have made, had the error become known or had the circumstances been allowed for, is clear.

67F New subpart heading inserted (Subpart 2C—Functions and powers of Commissioner)

Before section 7, insert as a subpart heading, "Subpart 2C—Functions and powers of Commissioner".

67G New subpart heading inserted (Subpart 2D—Modes of communication)

Before section 14, insert as a subpart heading, "Subpart 2D—Modes of communication".

67H Section 16C amended (Key terms)

In section 16C(3)(a)(iii), replace "a person to whom or to which it relates" with "a person to whom, or an entity to which, it relates".

67I Section 17 amended (Information to be furnished on request of Commissioner)

In section 17(1CB), replace "sections 139AB, 143(2) and 143A(2)" with "section 139AB".

67J Section 17D amended (Warrants)

In section 17D(5), replace "in section 17(3)" with "of sections 17 and 17C(1)(d), (3), (5), and (6)".

67K Section 17E amended (Information or documents treated as in persons' knowledge, possession, or control)

In section 17E(2), replace "sections 17B(1), 139AB, 143(2), and 143A(2)" with "sections 17B(1) and 139AB".

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

(1) In section 22(2BA)(a), after "English", insert "or te reo Maori".

(2) In section 22(8)(a)(i), after "English", insert "or te reo Maori".

69 Section 22A amended (Records required under subpart EW of Income Tax Act 2007)

(1) In section 22A(1), after "English", insert "or te reo Maori".

(2) In section 22A(2), after "English", insert "or te reo Maori".

70 Section 22B amended (Further records required)

In section 22B(1), words before paragraph (a), after "English", insert "or te reo Maori".

70B Section 23C amended (Meaning of employment income information)

(1) In section 23C(4)(a), replace "between the 1st and 15th days of the month" with "in the period that starts on the 1st day of the month and ends on the 15th day of the month".

(2) In section 23C(4)(b), replace "between the 16th and last day of the month" with "in the period that starts on the 16th day of the month and ends on the last day of the month".

70C Section 23F amended (Non-electronic group of employers)

(1) In section 23F(3)(b)(i), replace "between the 1st and 15th days of a month" with "in the period that starts on the 1st day of a month and ends on the 15th day of the month".

(2) In section 23F(3)(b)(ii), replace "between the 16th and last day of the month" with "in the period that starts on the 16th day of the month and ends on the last day of the month".

71 Section 26 amended (Records to be kept for RWT purposes)

(1) In section 26(1), words before paragraph (a), after "English", insert "or te reo Maori".

(2) In section 26(2), words before paragraph (a), after "English", insert "or te reo Maori".

(3) In section 26(4), after "English", insert "or te reo Maori".

(4) In section 26(6), after "English", insert "or te reo Maori".

71B Section 32E amended (Applications for RWT exemption certificates)

Before section 32E(1), insert:

(1A) A person who is registered as a charitable trust under the Charitable Trusts Act 1957 is treated as ~~holding an RWT exemption certificate~~ having RWT-exempt status for the duration of the registration.

71C Section 48B amended (Reconciliation statement for retirement scheme contribution withholding tax)

In section 48B(2)(m), replace "39%" with "33%".

71D Section 91CB amended (Binding rulings on certain matters)

(1) In section 91CB(2)(a), replace "section YA 1 of that Act" with "section YA 1 of the Income Tax Act 2007".

(2) In section 91CB(3)(a), replace "section CB 4 of that Act" with "section CB 4 of the Income Tax Act 2007".

(3) Repeal section 91CB(3)(c).

71E Section 91EB amended (Application of a private ruling)

After section 91EB(2)(a), insert:

(ab) the circumstances are materially different from the circumstances described in the ruling; or

72 Section 143A amended (Knowledge offences)

After section 143A(1)(f), insert:

(fb) knowingly does not issue a receipt relating to a supply of distantly taxable goods as required by section **24BAB(3)** of the Goods and Services Tax Act 1985; or

(fc) knowingly does not provide information relating to a supply of distantly taxable goods as required by section **24BAC** of the Goods and Services Tax Act 1985; or

72B Section 143C amended (Offences related to disclosure of sensitive revenue information by revenue officers)

(1) Replace section 143C(1) with:

(1) A revenue officer commits an offence against this Act if they—

(a) knowingly act in contravention of section 18(1):

(b) disclose revenue information knowing that it may adversely affect the integrity of the tax system or prejudice the maintenance of the law.

(2) In section 143C(2), replace "person" with "revenue officer".

73 Section 185O amended (Application of Common Reporting Standard)

(1) In section 185O(2), after "schedule 2", insert ", part 1".

(2) In section 185O(3)(b), after "as amended at the time", insert "and as modified and clarified in the ways specified in schedule 2, part 2".

74 Schedule 2 amended (Application of CRS standard)

(1) In schedule 2, before the heading before item 1, insert "**Part 1**".

(2) In schedule 2, after item 25, insert:

Part 2
Items modifying and clarifying Commentary on the CRS standard

1 In the application of the *Commentary on the CRS standard* (the **Commentary**) to the interpretation of the definitions of Investment Entity and Custodial Institution in the CRS, a reference in a definition to "the Entity's gross income attributable to [certain activities of the Entity]" is treated as being a reference to the total gross income arising for the Entity and other entities that is attributable to the Entity's performance of the activities.

74B Schedule 7 amended (Disclosure rules)

(1) In schedule 7, part A, clause 2, replace paragraphs (a), (b), and (c) with:

(a) for the purpose of carrying into effect a revenue law:

(b) to a person or entity specified in clauses 3 to 13 for the purpose and about the matter described in the provision, subject to any conditions set out in the provision.

(2) In schedule 7, part C, clause 31, replace "section 156J of the Land Transfer Act 1952" with "section 86 of the Land Transfer Act 2017".

Amendments to Child Support Act 1991

75 Child Support Act 1991 amended

Sections 76 to 81 amend the Child Support Act 1991.

76 Section 89Y amended (Application for exemption on grounds relating to sex offence)

(1) Replace section 89Y(1)(a) with:

(a) any of the following apply:

(i) another person has been convicted of a sex offence:

(ii) another person has been proved before the Youth Court to have committed a sex offence:

(iii) the liable parent believes that another person has committed a sex offence; and

(2) After section 89Y(1), insert:

(1A) A liable parent may apply under **subsection (1)(a)(iii)** even if the liable parent is unable to name the other person referred to in that subparagraph.

77 Section 89Z amended (Grant of exemption to victim of sex offence)

(1) Replace section 89Z(1)(b) and (c) with:

(b) any of the following apply:

(i) the Commissioner is satisfied that another person has been convicted of a sex offence:

(ii) the Commissioner is satisfied that another person has been proved before the Youth Court to have committed a sex offence:

(iii) in the opinion of the Commissioner, it is likely that another person has committed a sex offence; and

(c) the Commissioner is satisfied that the liable parent is a victim of that sex offence; and

(2) After section 89Z(1), insert:

(1A) The Commissioner may act under **subsection (1)(b)(iii)** even if the other person has been acquitted of the sex offence.

(3) Replace section 89Z(3) with:

(3) However, the period of exemption may commence on a day determined by the Commissioner that is earlier than the day on which the Commissioner received the application for exemption if the Commissioner is satisfied that it is—

(a) just and equitable as regards the child, the receiving carer, the liable parent, and any other child, carer, or parent that may be affected by the Commissioner's decision; and

(b) otherwise proper.

78 Section 89ZA amended (Exemption is void if conviction quashed or finding is reversed or set aside)

(1) In the heading to section 89ZA, replace "**if conviction quashed or finding is reversed or set aside**" with "**in certain circumstances**".

(2) In section 89ZA(1)(b), replace "aside." with "aside; or".

(3) After section 89ZA(1)(b), insert:

(c) in the case where the Commissioner relies on **section 89Z(1)(b)(iii)** when granting the exemption, the Commissioner is no longer of the opinion that it is likely that another person has committed the sex offence.

(4) Replace section 89ZA(2) and (3) with:

(2) Subsection (1) does not prevent a liable parent from making a new application under section 89Y.

(3) If, following a new application, an exemption is granted under section 89Z(1), the exemption commences on—

(a) the date on which the Commissioner received the new application for the exemption; or

(b) an earlier date under **section 89Z(3)**.

79 Section 89ZB amended (Commissioner must give effect to exemption and may take changes into account)

In section 89ZB(2), after "becoming aware", insert ", or deciding,".

80 Section 152A amended (Relief in case of exemption granted to liable person)

In section 152A(1)(b), after "subpart 2", insert "or 4".

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

In Schedule 1, after Part 2, insert:

Part 3
Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2018

12 Exemption for victim of sex offence may take effect on or after 26 September 2006

(1) An application may be made, and an exemption may be granted, under subpart 4 of Part 5A (as in force after commencement) in respect of—

(a) a sex offence that was committed (or is alleged to have been committed) before or after commencement:

(b) periods before or after commencement.

(2) However, a day determined under **section 89Z(3)** (as in force after commencement) as the date on which the period of exemption commences may only be a date on or after 26 September 2006.

(3) In this clause, **commencement** means the commencement of **section 81** of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act **2018**.

Amendments to Student Loan Scheme Act 2011

82 Student Loan Scheme Act 2011 amended

Sections 83 to 93 amend the Student Loan Scheme Act 2011.

83 Section 4 amended (Interpretation)

(1) In section 4(1), definition of **primary employment earnings**, before paragraph (a), insert:

(aa) includes a schedular payment paid to the borrower in the pay period; and

(2) In section 4(1), definition of **salary or wages**, replace paragraphs (a) and (b) with:

(a) includes an extra pay; and

(b) includes a schedular payment, except as provided in **section 202A**

(3) In section 4(1), insert in its appropriate alphabetical order:

schedular payment has the same meaning as in section RD 8 (Schedular payments) of the Income Tax Act 2007

(4) In section 4(1), definition of **secondary employment earnings**, replace paragraphs (a) and (b) with:

(a) includes an extra pay; but

(b) does not include a schedular payment

84 Section 22 amended (Meaning of New Zealand-based)

Replace section 22(1) with:

(1) A borrower is **New Zealand-based** if—

(a) the borrower is physically in New Zealand for a period of 183 consecutive days; or

(b) the borrower is treated as being physically in New Zealand for a period of 183 consecutive days because—

(i) the borrower is physically absent from New Zealand for a period, or aggregated periods, of no more than 31 days during a period of 183 consecutive days; and

(ii) the borrower is physically in New Zealand for the first day of that 183-day period.

(1A) A day on which a borrower is treated as being physically in New Zealand under section 24 or 25 counts in the same way as a day on which the borrower is actually physically in New Zealand.

85 Section 23 amended (Meaning of overseas-based)

Replace section 23(1) with:

(1) The following persons are **overseas-based**:

(a) a borrower who is not New Zealand-based under section 22:

(b) a New Zealand-based borrower who is physically absent from New Zealand for a period of 184 consecutive days:

(c) a New Zealand-based borrower who is treated as physically absent from New Zealand for a period of 184 consecutive days because—

(i) the borrower is physically in New Zealand for a period, or aggregated periods, of 31 days or less during a period of 184 consecutive days; and

(ii) the borrower is physically absent from New Zealand for the first day of that 184-day period.

(1A) A borrower must not be treated as being physically absent from New Zealand for any day on which that borrower is treated as being physically in New Zealand under **section 22(1)(b)**.

(1B) A day on which a borrower is treated as being physically in New Zealand under section 24 or 25 counts in the same way as a day on which the borrower is actually physically in New Zealand.

86 Section 73 amended (Meaning of adjusted net income, Schedule 3 adjustments, and related terms)

In section 73(1), definition of **adjusted net income**, paragraph (b), after "excludes salary and wages", insert "(but *see* **section 202A** in relation to schedular payments)".

87 Cross-heading above section 134 replaced

Replace the cross-heading above section 134 with:

Loan interest charged for all overseas-based borrowers

88 Section 134 amended (Loan interest charged for all borrowers)

(1) Replace the heading to section 134 with "**Loan interest charged for all overseas-based borrowers**".

(2) Replace section 134(1) with:

(1) A borrower is liable to pay loan interest on his or her loan balance for each day—

(a) that the borrower has a loan balance; and

(b) that the borrower is overseas-based.

89 Section 135 amended (Loan interest calculated daily and charged and compounded annually)

Replace section 135(1) with:

(1) Loan interest is calculated and accrues each day—

(a) that a borrower has a loan balance; and

(b) that a borrower is overseas-based.

90 Section 137 repealed (Full interest write-off for New Zealand-based borrowers)

Repeal section 137.

91 New section 202A inserted (Treatment of schedular payments)

After section 202, insert:

202A Treatment of schedular payments

(1) Sections 63 to 68C do not apply in respect of schedular payments.

(2) In section 73(1), definition of **adjusted net income**, paragraph (b), schedular payments are excluded only to the extent that deductions have been made as required by subpart 1 of Part 2.

(3) Schedular payments are disregarded for the purpose of calculating the amount of interim payments that a borrower is obliged to pay towards the 2020–21 and later tax years' end-of-year repayment obligation in accordance with section 82 or 83 and section 84 or 85.

92 Schedule 2 amended (Application of PAYE rules for purposes of section 70)

(1) In Schedule 2, clause 2(a), replace "RD 8" with "RD 9".

(2) In Schedule 2, clause 2(a), replace "RD 17(2) and (3), and RD 18 to RD 20" with "and RD 17(2) and (3)".

93 Schedule 3 amended (Adjustments to net income for purposes of section 73, applying from 1 April 2014 for 2014–2015 and later tax years)

Excluded income

(1) In Schedule 3, after clause 5, insert:

5A Excluded income

(1) The following amounts are not included in adjusted net income of the borrower:

Retirement scheme contributions

(a) an amount of retirement scheme contribution that is not excluded income of the borrower and would be their excluded income in the absence of section CX 50B(2) of the Act (Contributions to retirement savings schemes):

Amounts of depreciation loss on disposal of building

(b) in relation to a building from the disposal of which the borrower derives assessable income, an amount of depreciation loss allowed in the 2002–03 or earlier income year.

(2) However, **subclause (1)(b)** does not apply to an amount of depreciation loss of a business or investment activity that under clause 4 is treated as having no net income for the purposes of calculating adjusted net income.

Compare: 2007 No 97 s MB 1(5B), (5C)

Borrowers who are major shareholders in close companies

(2) In Schedule 3, replace clause 8(2) to (5) with:

(2) Section MB 4 of the Act applies as if the references in that section to "family scheme income" were references to "adjusted net income" and with all other necessary modifications.

Amendments to Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019

94 Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019

Sections 95 and 96 amend the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019.

95 Section 2 amended (Commencement)

In section 2(31), delete "194,".

96 Section 244 amended (Section OP 22 amended (Consolidated ICA group company's credit))

Replace section 244(4) with:

(4) If the amendments made by subsections (1) and (2), together with the effect of subsection (3), give rise to a debit balance, or an increase in a debit balance, (the **adjustment debit amount**) in an imputation credit account of a company at the end of a tax year (the **adjustment year**) before the 2019–20 tax year,—

(a) the company is not liable for further income tax arising under section OB 65, or imputation additional tax arising under section OB 72, or imputation penalty tax arising under section 140B of the Tax Administration Act 1994, for an adjustment debit amount and an adjustment year before the 2018–19 tax year:

(b) a company that has an adjustment debit amount and has a debit balance (the **resulting debit balance**) in the imputation credit account at the end of the 2018–19 tax year is—

(i) liable for further income tax arising under section OB 65 for the resulting debit balance, to the extent that the resulting debit balance arises from adjustment debit amounts, with a due date for payment that is 7 March 2020, despite section OB 65(3):

(ii) not liable for imputation additional tax arising under section OB 72, or imputation penalty tax arising under section 140B of the Tax Administration Act 1994, for the resulting debit balance to the extent that the resulting debit balance arises from the adjustment debit amounts.

Amendments to Search and Surveillance Act 2012

97 Schedule to Search and Surveillance Act 2012 amended (Powers in other enactments to which all or part of Part 4 of Search and Surveillance Act 2012 applies)

In the Schedule to the Search and Surveillance Act 2012, entry for Tax Administration Act 1994,—

(a) in column 2, replace "16" with "17" and in the corresponding entry in column 3, replace "section 16" with "section 17":

(b) in column 2, replace "16C(2)" with "17D(2) and (3)" and in the corresponding entry in column 3, replace "section 16" with "sections 17 and 17D".

Amendments to Land Transfer Act 2017

98 Land Transfer Act 2017

Sections 99 to 101 amend the Land Transfer Act 2017.

99 Section 77 amended (Interpretation)

(1) In section 77(1), repeal the definitions of **main home** and **offshore person**.

(2) In section 77(1), insert in its appropriate alphabetical order:

non-notifiable transfer means a transfer specified in regulations made under this Act as a non-notifiable transfer

(3) Repeal section 77(2).

100 Section 79 amended (Content of tax statement)

(1) After section 79(1)(d), insert:

(da) if the land has a home on it, state whether the transfer is a main home transfer in relation to the transferor or transferee; and

(2) Replace section 79(5) and (6) with:

(5) In this section,—

home means a dwelling mainly used as a residence

IRD number has the meaning given to tax file number by section 3(1) of the Tax Administration Act 1994

main home transfer means—

(a) in relation to a transferor, a transfer of land that has a home on it if the transferor—

(i) is a natural person, is not acting in the capacity of the trustee of a trust, and has resided in the home for more than 50% of the period during which the transferor has been an owner of the land; or

(ii) is a trustee of a trust a beneficiary of which is a natural person who has resided in the home for more than 50% of the period during which the land has been the property of that trust:

(b) in relation to a transferee, a transfer of land that has a home on it if the transferee—

(i) is a natural person, is not acting in the capacity of the trustee of a trust, and intends to reside in the home; or

(ii) is a trustee of a trust a beneficiary of which is a natural person who intends to reside in the home.

101 Schedule 1 amended (Transitional, savings, and related provisions)

In Schedule 1, after clause 13, insert:

Part 2
Provision relating to the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2018

14 Six-month transitional period for existing agreements

(1) The old regime continues to apply in relation to a transfer of land if—

(a) an agreement for the transfer of the land was entered into before 1 January 2020; and

(b) the instrument of transfer is lodged for registration on or before 1 July 2020.

(2) In this section, **old regime** means this Act as in force immediately before 1 January 2020 (when **sections 98 to 101 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2018** came into force).

Schedule 1
Minor nomenclature-related amendments to Income Tax Act 2007

s 66

Section EW 15F amended (Expected value method)

In section EW 15F, in the list of defined terms, delete "NZIAS 39".

Section EX 20B (Attributable CFC amount)

In section EX 20B(4)(b)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 20B, in the list of defined terms, insert "IFRS 9".

Section EX 21E (Non-attributing active CFC: test based on accounting standard)

In section EX 21E(7)(f), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(f)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(fb)(i), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(fb)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(g), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(g)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(c), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(c)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(cb)(i), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(cb)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(d), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(d)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(12)(d)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E, in the list of defined terms, insert "IFRS 9".

Section EX 46 (Limits on choice of calculation methods)

In section EX 46(10)(c)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 46(10)(cb)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 46, in the list of defined terms, insert "IFRS 9".

Section EX 50 (Attributable FIF income method)

In section EX 50(4B)(e)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 50(4B)(f)(ii), replace "NZIAS 39" with "IFRS 9".

Section EX 50 (Attributable FIF income method)—*continued*

In section EX 50(4B)(g)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 50(4B)(h)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 50(4B)(p), replace "NZIAS 39" with "IFRS 9" in each place where it appears.

In section EX 50(4B)(r), replace "NZIAS 39" with "IFRS 9" in each place where it appears.

In section EX 50(4B)(s), replace "NZIAS 39" with "IFRS 9" in each place where it appears.

In section EX 50(7C)(a)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 50, in the list of defined terms, delete "NZIAS 39".

In section EX 50, in the list of defined terms, insert "IFRS 9".

Section HM 35B (Treatment of certain provisions made by multi-rate PIEs)

In section HM 35B(4), replace "NZIAS 39" with "IFRS 9".

In section HM 35B, in the list of defined terms, delete "NZIAS 39".

In section HM 35B, in the list of defined terms, insert "IFRS 9".

Section YA 1 (Definitions)

In section YA 1, repeal the definition of **NZIAS 39**.

In section YA 1, insert, in appropriate alphabetical order:

> **IFRS 9** means the IFRS, numbered 9, that relates to financial reporting of financial assets and financial liabilities

Legislative history

5 December 2018	Introduction (Bill 114–1)
11 December 2018	First reading and referral to Finance and Expenditure Committee
31 May 2019	Reported from Finance and Expenditure Committee (Bill 114–2)
13 June 2019	Second reading
18 June 2019	Committee of the whole House (Bill 114–3)

Wellington, New Zealand:
Published under the authority of the House of Representatives—2019