

Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following Acts:

- Goods and Services Tax Act 1985;
- Income Tax Act 2007;
- Tax Administration Act 1994;
- Child Support Act 1991;
- KiwiSaver Act 2006;
- Student Loan Scheme Act 2011; and
- Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020.

This Bill also revokes the following regulations:

- Co-operative Dairy Companies Income Tax Regulations 1955;
- Cooperative Milk Marketing Companies Income Tax Regulations 1960; and
- Cooperative Pig Marketing Companies Income Tax Regulations 1964.

Broadly, the policy proposals in this Bill fall into 3 categories. The first category sets the annual rates of income tax for the 2021–22 tax year.

The second of these categories contains proposals aimed at improving current settings within a broad-base, low rate framework. This framework helps to ensure that taxes are fair and efficient and impede economic growth as little as possible. It also helps keep compliance costs low and minimises opportunities for avoidance and evasion. The framework underpins the Government’s revenue strategy and helps maintain confidence that the tax system is fair, which is crucial to encouraging voluntary compliance.

Although New Zealand has relatively strong tax settings, it is important to maintain the tax system and ensure that it continues to be fit for purpose. Changes in the economic environment, business practice, or interpretation of the law can mean that the tax system becomes unfair, inefficient, complex or uncertain. The tax system needs to be responsive to these concerns.

The third category relates to proposals aimed at improving the settings for tax administration, the goods and services tax regime, KiwiSaver and social policy rules administered by Inland Revenue.

The main policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (GTPP). It is a very open and interactive engagement process between the public and private sectors. This process helps to ensure that tax and social policy changes are well thought through. The GTPP is designed to ensure better, more effective policy development through the early consideration of all aspects, and likely impacts, of proposals. The GTPP increases opportunities for public consultation.

The GTPP means that major tax initiatives are subject to public scrutiny at all stages of their development. As a result, Inland Revenue and Treasury officials have the opportunity to develop more practical options for reform by drawing on information provided by the private sector and the people who will be affected.

The final stage of the GTPP is a post-implementation review of new legislation and identification of remedial issues that need correcting for the new legislation to have its intended effect. Further information on the GTPP can be found at <https://taxpolicy.ird.govt.nz/about-us/how-we-develop-tax-policy>.

The following is a brief summary of the specific policy measures contained in this Bill. A comprehensive explanation of all the policy items is provided in a commentary on the Bill that is available at <https://taxpolicy.ird.govt.nz/publications/2021/2021-commentary-argrm-bill>.

Confirmation of annual rates of income tax for the 2021–22 tax year

The Income Tax Act 2007 requires the rates of income tax to be set each year by an annual taxing Act. The Bill proposes that the annual rates of income tax for the 2021–22 tax year be set at the rates currently specified in schedule 1, part A of the Income Tax Act 2007.

That schedule has been amended effective from 1 April 2021 to include a tax rate of 0.390 for taxable income of \$180,001 upwards.

GST-related reforms

Exclusion of cryptoassets from GST and the financial arrangements rules

The Bill proposes the exclusion of cryptoassets from GST and the financial arrangements rules to ensure that these rules do not impose barriers to developing new products, raising capital, and investing through cryptoassets. The Bill additionally proposes allowing GST-registered businesses that raise funds through issuing cryptoassets

with similar features to debt or equity securities to claim input credits for their capital-raising costs.

Domestic leg of the international transport of goods

The Bill proposes that the domestic leg of the international transportation of goods be zero-rated. This is intended to ensure that partially irrecoverable GST costs are not imbedded in the final price of the goods paid by the consumer and that the tax system does not create incentives to pick one transport carrier over another. This will bring New Zealand's rules into line with those of Australia, which similarly zero-rate the domestic leg of the international transport of goods.

Improvements to the GST apportionment rules

The Bill proposes 2 improvements to the GST apportionment rules in the Goods and Services Tax Act 1985 (GST Act). These rules are used to determine GST input tax deductions when an asset is used partly to conduct a GST-registered business and partly for a private or exempt use. The first reform would ensure that the apportionment rules do not overtax sales of appreciating assets that are partly used for business and partly used privately (such as farmhouses and home offices) by allowing a deduction that correctly reflects the non-taxable use. The second reform would reduce compliance costs for smaller GST-registered suppliers by allowing them to apply to Inland Revenue to approve an alternative apportionment method (this application process is currently limited to large taxpayers with more than \$24 million of annual turnover).

Secondhand input tax credits on supplies between associated persons

The Bill proposes an amendment to allow a secondhand goods input tax credit on supplies between associated persons equal to the tax fraction of the original cost of the good at the time it was purchased by the first person in the chain of associated persons. This will ensure registered persons are not overtaxed in respect of land they purchased from an unregistered associated person.

Modernising the GST invoicing rules and information and record-keeping requirements

The Bill proposes amendments that modernise the GST invoicing rules by replacing the requirements for the issue of documents with requirements for the provision of information, with no prescribed formats. The proposed information requirements will replace the formal requirements that registered persons must create and retain tax invoices for taxable supplies and also credit notes and debit notes for adjustments to taxable supplies. The processes for calculating GST payable for each taxable period remain unchanged.

Clarifying rules for groups of companies

The Bill proposes amendments to the rules relating to groups of companies. An amendment introduces the term *GST group* for a group of companies that choose to

register as a group under the GST Act. Other amendments clarify the application of the GST rules for the representative member as the maker and receiver of supplies for a GST group.

Granting 11 charities overseas donee status

The Bill proposes 11 New Zealand charities with overseas charitable purposes be granted overseas donee status and listed in schedule 32 of the Income Tax Act 2007 with effect from 1 April 2021. The Bill additionally proposes a change to the sunset clause for the New Zealand Memorial Trust – Le Quesnoy’s donee status. The Bill will grant this Trust overseas donee status until 31 March 2025. The Bill also proposes to remove 8 charities whose activities have ceased.

Local authority taxation: dividends and deductions

The Bill proposes a series of measures to improve the integrity of local government taxation and help prevent local authorities from effectively transferring the benefit of their exempt status to their taxable council-controlled organisations.

Changes to the fair dividend rate foreign currency hedges rules

The Bill proposes a series of technical amendments to the fair dividend rate foreign currency hedges rules (FDR FX hedges rules). These are designed to improve the functionality of the FDR FX hedges rules from a practical perspective and reduce compliance costs for taxpayers with large numbers of hedges.

Use of tax pooling to satisfy a backdated tax liability

The Bill proposes allowing the use of tax pooling to satisfy a tax obligation where there is no existing tax assessment or the tax obligation has not been quantified. This proposal includes safeguards to avoid incentivising the non-filing of tax returns by taxpayers.

Removal of sunset provision from COVID-19 information-sharing provision

The Bill proposes the removal of the time limit from the COVID-19 information-sharing provision, which will allow it to remain in effect without the need for repeated extension through Orders in Council. This is designed to “future-proof” this provision by ensuring that Inland Revenue is able to share necessary information throughout the life-cycle of the pandemic and the initiatives that support New Zealand’s recovery.

Penalising the sale or possession of sales suppression software

The Bill proposes the introduction of penalties on the sale and acquisition of sales suppression software. This initiative is designed to address the serious risk that sales suppression software poses to the integrity of New Zealand’s tax base.

Remedial amendments

A number of remedial matters are also addressed in the Bill. These include:

- aligning the amount of a deemed dividend and interest denied when a restricted transfer pricing adjustment has been made;
- clarifying that decisions of the Commissioner of Inland Revenue in terms of the remedial powers are not a “disputable decision” for the purposes of the Tax Administration Act 1994;
- aligning the investment income information filing dates for some payers of investment income with their 6-monthly payment dates;
- repealing transitional co-existence provisions;
- various amendments to the 10-year bright-line test to align the rules with the policy intent, including ensuring that a main home that takes longer than 12 months to construct is not subject to the bright-line test;
- clarifying the treatment of employer KiwiSaver contributions;
- amendments to the hybrid and branch mismatch rules;
- administrative amendments to the Child Support Act 1991;
- preventing the conversion of capital gains to taxable distributions following a share-for-share exchange;
- preserving the non-association of a beneficiary of a security trust;
- replacing a knowledge offence in relation to GST invoicing requirements with a strict liability offence;
- aligning the treatment of joint and several liability of GST groups with income tax groups;
- removing fax as a mode of communication between taxpayers and Inland Revenue;
- aligning the treatment of non-active estates with non-active trusts by no longer requiring non-active estates to file tax returns;
- repealing existing information-sharing provisions (ACC and MBIE) to avoid the duplication of authorising provisions;
- removing the power to repeal the SFO information-sharing clause, as it is no longer necessary;
- clarifying the meaning of “revenue information” and “sensitive revenue information”;
- reinserting a penalty for a failure to keep taxpayer information confidential;
- allowing the refund of ancillary taxes; and
- addressing shareholding continuity issues arising from corporate spin-outs.

A number of minor remedial matters are also addressed in the Bill, consisting mainly of correcting minor faults of expression, reader’s aids, and incorrect cross-references.

Detail of further remedial amendments is included in the Commentary to the Bill.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=65>

Regulatory impact assessments and statements

The Inland Revenue Department produced regulatory impact assessments or statements on 26 July 2018, 31 May 2021, 1 June 2021, and 17 June 2021 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments and statements can be found at—

- <https://taxpolicy.ird.govt.nz/publications>
- <https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 gives the dates on which the clauses of the Bill come into force. *Clause 173(2) and (3)* come into force on a date or dates to be set by Order in Council. The reason for the commencement of these provisions by Order in Council is to prevent provisions that will potentially conflict with approved information sharing agreements (AISAs) Inland Revenue is currently developing with the Accident Compensation Corporation and the Ministry of Business, Innovation, and Employment from being in force at the same time as those AISAs. It is not currently known when the AISAs will come into force.

Part 1

Annual rates of income tax

Clause 3 sets the annual rates of income tax for the 2021–22 tax year.

Part 2

Amendments to Goods and Services Tax Act 1985

Clause 4 provides that *Part 2* amends the Goods and Services Tax Act 1985 (the GST Act).

Clause 5 amends section 2, which gives definitions of terms used in the GST Act.

Clause 6 amends section 3A, which gives the meaning of *input tax*. *Subclause (1)* inserts *new subsection (2)(ab)*, which excludes from the calculation of input tax the cost of supplies of secondhand goods acquired before 1 October 1986. *Subclause (2)* replaces subsection (3)(a)(i) with *new subparagraphs (i) and (ib)*, which distinguish between goods acquired by the supplier from a person who is not an associated person and goods acquired by the supplier from an associated person.

Clause 7 amends section 5, which gives the meaning of *supply*. *Subclause (1)* amends subsection (6AB) to replace a reference to the New Zealand Fire Service Commission with a reference to Fire and Emergency New Zealand. *Subclause (2)* amends subsection (6E)(b)(ii) to correct a cross-reference. *Subclause (3)* amends subsection (8A) to exclude an amount paid by a member to a body corporate from being treated as a levy for a supply of a service by the body corporate if the payment is reimbursement for a payment by the body corporate for a service that is an exempt supply to the member. *Subclause (4)* repeals subsection (18). *Subclause (5)* amends subsection (23), which provides for a mistake in treating a supply of land as being zero-rated under section 11(1)(m)(b), so that the correction of the error is attributed to the taxable period in which the error is found.

Clause 8 amends section 6(3)(c)(iii) by removing the requirement, for membership of a board to be excluded from being a taxable activity, that the board be a statutory board.

Clause 9 inserts *new section 8AA*, which sets out the arrangement of the GST Act after the amendments made by *Part 2*.

Clause 10 replaces section 11(1)(eb)(i) so that goods supplied to a resident for export are zero-rated if the other requirements for zero-rating are met.

Clause 11 amends section 11A(1)(c) so that if services of transporting goods between places in New Zealand are provided as part of the transporting of goods into or out of New Zealand, the supply of the services within New Zealand is zero-rated whether or not the supplier of those services is the same as the supplier of the transport into or out of New Zealand.

Clause 12 inserts *new section 12C*, which gives the requirements for the information that must be provided to the New Zealand Customs Service by a person who imports goods as part of a supply of distantly taxable goods. The inserted section is a relocation of the requirements of repealed section 24BAC so that they are in closer proximity to section 12, which provides for the imposition of tax on imported goods.

Clause 13 amends section 15 to allow for taxable periods that are equivalent to periods of 1 month, 2 months, and 6 months but end on a date or day that is approved under section 15E, as amended.

Clause 14 amends section 15B to provide how a person's GST cycle, based on a period allowed under section 15E as amended, aligns with the person's balance date.

Clause 15 amends section 15C to allow a person to apply to the Commissioner for a change of the person's taxable period to a period allowed under section 15E as amended.

Clause 16 amends section 15D to provide for the timing of a change in a person's taxable period to a period allowed under section 15E as amended.

Clause 17 amends section 15E to allow a person to apply to the Commissioner for approval of a taxable period that is equivalent to a period of 1 month, 2 months, or 6 months but ends on an approved date or day that is not on or near the last calendar day of a month.

Clause 18 inserts *new section 15EB*, which gives the criteria for the Commissioner's approval under section 15E of a taxable period that does not end on or near the last calendar day of a month.

Clause 19 inserts *new cross-headings and sections 19E to 19P*. *New sections 19E to 19J* give the requirements for the keeping by registered persons of records relating to taxable supplies made in different situations. The requirements reflect the consequences of the repeal of section 24 and the amendment of section 25, which abolish the requirements for tax invoices and credit and debit notes relating to a taxable supply, and the insertion of *new sections 19K to 19N*, which require taxable supply information to be issued when a taxable supply is made and supply correction information to be issued when an error in taxable supply information is recognised. *New section 19O* provides for the rounding of amounts that include fractions of cents, while *new section 19P* allows the Commissioner to make rulings on the use of various symbols in electronic forms of taxable supply information and supply correction information.

Clause 20 inserts a *new cross-heading* before section 20 to indicate the topic dealt with by the following sections in Part 3 of the GST Act.

Clause 21 amends section 20, which provides for the calculation of the tax payable by a registered person for a taxable period. *Subclause (1)* replaces section 20(2), which required a registered person to hold tax invoices, credit notes and debit notes for each supply that supported the treatment of the supply in the registered person's return for the taxable period. The replacement subsection requires a registered person to hold appropriate records, rather than documents, in support of their treatment of each supply in the calculation of the tax payable for the taxable period. *Subclauses (2), (3), and (9)* make consequential amendments. *Subclause (4)* inserts *new subsection (3C)(c)*, which allows a registered person to have a deduction for input tax charged on the purchase of goods that have not been available for use by the registered person, if the supplier is not associated with the registered person. *Subclause (5)* replaces subsection (3EB)(b)(i), removing a requirement that a registered person have a minimum value of taxable supplies before being able to make an agreement with the Commissioner on a method of apportioning input tax between different types of supply. *Subclause (6)* amends subsection (3J) so that the requirement for apportionment based on the use of a supply of land is extended to require apportionment based on the use of a supply of all or part of a taxable activity. *Subclause (7)* amends subsection (3J)(a)(iii) to clarify the drafting. *Subclause (8)* replaces subsections (3L), (3LB), and (3LC) so that they provide for the treatment of input tax by all non-resident registered persons.

Clause 22 replaces section 20H(1)(d) to allow for the possibility that the supplies of financial services made by a registered person in raising funds may include the issue or allotment of a cryptoasset.

Clause 23 amends section 21, which provides for adjustments to the apportionment of supplies. *Subclause (1)* inserts *new section 21(2)(ac)*, which removes the need for a further adjustment by a registered person who makes an adjustment for a change in use of goods or services and has not made a further change subsequently. *Subclause (2)* replaces subsection (4B)(b)(i), removing a requirement that a registered person have a minimum value of taxable supplies before being able to make an agreement with the Commissioner on a method of calculating adjustments.

Clause 24 amends section 21B, which provides for adjustments when a person becomes a registered person after acquiring goods and services. *Subclause (1)* replaces subsection (1)(b) to simplify the drafting of the section. *Subclause (2)* replaces the opening words of subsection (2) as a consequence of the effect of *subclause (3)*. *Subclause (3)* replaces subsection (3) to take into account the abolition of tax invoices.

Clause 25 amends section 21F, which applies to the disposal of goods and services for which a registered person did not receive a full deduction of input tax for the cost price. *Subclause (1)* repeals subsections (2) and (3), which provide a formula for calculating the final adjustment for the goods and services. *Subclause (2)* amends the opening words of subsection (4), which, as a consequence of *subclause (1)*, gives the default formula for calculating the final adjustment. *Subclause (3)* replaces subsection (6) to prescribe a limit on the final adjustment that may be made for a disposal of land that is a taxable supply as a consequence of the registered person's taxable activity. *Subclause (4)* consequentially amends subsection (7).

Clause 26 repeals section 24, resulting in the abolition of the requirement that, when requested, a registered person issue a tax invoice containing the prescribed content with each taxable supply to another registered person. The repeal is part of the changes made by *new sections 19E to 19N*, which prescribe the information that a registered person must issue with a taxable supply and the records that must be kept for each supply.

Clause 27 repeals section 24BA.

Clause 28 repeals section 24BAB.

Clause 29 repeals section 24BAC.

Clause 30 repeals section 24B.

Clause 31 amends section 25. *Subclause (1)* changes the section heading to show that it applies to adjustments for errors in accounting for taxable supplies. *Subclause (2)* replaces subsection (1) to give the application of the section. *Subclause (3)* repeals subsection (1B), which provided for changes under a Pharmac agreement. *Subclause (4)* amends subsection (2) to consequentially amend a cross-reference. *Subclause (5)* repeals subsections (3), (3A), (3B), and (3C), abolishing the requirement for a registered person to issue a credit note or debit note if there is an error in a tax invoice for a taxable supply. *Subclause (6)* replaces subsections (4) and (5) to provide for the

treatment of an error in a return for a taxable period. *Subclause (7)* repeals subsections (6) and (7).

Clause 32 amends section 25AA consequentially on the abolition of tax invoices.

Clause 33 amends section 25AB consequentially.

Clause 34 repeals section 25A.

Clause 35 amends section 43, which gives the Commissioner a power to issue notices requiring deductions from amounts that would otherwise be paid to a person who is liable to the Commissioner for a payment of tax. The Commissioner's power is extended to apply to amounts that would otherwise be paid to a person who is liable to meet the obligations of a person who defaults in the payment of tax to the Commissioner.

Clause 36 amends section 53 to allow for changes in terms used in the GST Act and for the abolition of tax invoices and of credit and debit notes.

Clause 37 amends section 55, which provides for a group of companies to be treated under the GST Act as a single registered person. *Subclause (1)* changes the section heading to “GST groups” to reflect the change in the name for a group to which the section applies. *Subclause (2)* inserts *new subsections (1A) to (1AQ)*, which spell out the responsibilities and status under the GST Act of the GST group and of its members. In particular, the member that is the representative member for a GST group has the responsibilities and status associated with being treated as having all the activities that each member would otherwise have and making all the supplies that each member would otherwise be treated as making to persons who are not members. *Subclause (3)* amends subsection (1) so that it refers to a GST group. *Subclause (4)* replaces subsection (1)(a) to clarify the requirements that must be met by companies that wish to become a GST group. *Subclause (5)* amends subsection (1)(b) to clarify the requirements relating to the value of supplies made by companies wishing to become a GST group. *Subclauses (6), (7), and (9)* amend subsections (1B), (2), and (4) respectively, so that each refers to a GST group. *Subclause (8)* amends subsection (3) to remove unnecessary words. *Subclause (10)* inserts *new subsection (4AA)*, which provides for the date on which a newly-incorporated company may join a GST group. *Subclauses (11) to (13)* amend subsections (4A), (5), and (6) respectively, so that each refers to a GST group. *Subclause (14)* repeals subsections (7) and (7B), the content of which forms part of *new subsections (1A) to (1AQ)*. *Subclause (15)* amends subsection (8) so that it refers to a GST group and to correct a cross-reference to a repealed subsection.

Clause 38 inserts *new section 55B*, which provides for a grouping of suppliers, called a “supplier group”, which can nominate a member to issue taxable supply information for supplies by each of the members. The rules largely correspond to those in section 24BA, which is repealed.

Clauses 39 and 40 amend sections 60 and 75, respectively, to remove references to tax invoices, credit notes, and debit notes.

Clause 41 amends section 75B to remove a reference to fax as a consequence of the amendments to sections 14F and 14G of the Tax Administration Act 1994.

Clause 42 amends section 78AA to remove references to tax invoices, credit notes, and debit notes.

Clause 43 amends section 78B to remove references to tax invoices, credit notes, and debit notes.

Clause 44 amends section 78BA to remove references to tax invoices, credit notes, and debit notes.

Clause 45 repeals section 78G, which provides for regulation-making powers that are no longer required.

Part 3

Amendments to Income Tax Act 2007

Clause 46 provides that *Part 3* amends the Income Tax Act 2007.

Clause 47 amends section BC 5 to delete a superfluous item from the list of defined terms.

Clause 48 amends section CB 6A, as a remedial matter, to clarify the relationship between the exceptions to the bright-line test for residential land and the new 10-year bright-line period.

Clause 49 amends section CB 16A. *Subclauses (1) and (2)* clarify the relationship between the exceptions to the bright-line test for residential land and the new 10-year bright-line period. *Subclause (3)* inserts a term that is defined in that section into the list of defined terms.

Clause 50 amends section CD 5 to correct a minor fault of expression.

Clause 51 amends section CD 39 to clarify the relationship between the company dividend rules and the transfer pricing rules.

Clause 52 amends section CD 43 to correct a minor fault of expression.

Clause 53 amends section CD 44 to correct a minor fault of expression and to ensure that share-for-share exchanges are counted appropriately for the purposes of determining available subscribed capital.

Clause 54 amends section CW 10, which exempts inter-corporate dividends from income tax, to remove the exclusion for local authorities.

Clause 55 amends section CW 39 as a consequence of removing the exclusion for local authorities from the inter-corporate dividend exemption.

Clause 56 amends section CX 47 to remove RDTI transition support payments from being excluded income.

Clause 57 amends section CZ 40. *Subclause (1)* amends subsection (5) to bold the font of a term that is defined in that subsection. *Subclause (2)* amends the list of

defined terms to insert a defined term that appears in the section and delete a defined term that does not.

Clause 58 amends section DB 8, which allows a company a deduction for interest incurred on money borrowed to acquire shares in another company that is part of the same group of companies, to restrict the availability of a deduction for local authorities to cases where the shares being acquired are in a council-controlled trading organisation.

Clause 59 inserts *new section DB 9B*, which denies a local authority a deduction for interest incurred on borrowed money that it lends to a council-controlled organisation other than a council-controlled trading organisation.

Clause 60 amends section DB 11, which allows a person who has a negative base price adjustment a deduction for deemed expenditure to the extent to which it arises from assessable income deemed to have been derived by the person under the financial arrangement in earlier income years. The amendment restricts the availability of a deduction for local authorities to cases where the financial arrangement is with a council-controlled trading organisation.

Clause 61 amends section DB 20B to delete a superfluous item from the list of defined terms.

Clause 62 replaces an inaccurate cross-heading above section DB 41.

Clause 63 amends section DB 41, which allows a company a deduction for charitable gifts, to exclude local authorities from being allowed such a deduction.

Clause 64 amends section DF 1 to remove RDTI transition support payments from the rules denying deductions in relation to grants.

Clause 65 amends section DV 18B to correct a minor fault of expression.

Clause 66 amends section EE 6 to correct an entry in the list of defined terms.

Clause 67 amends section EE 40 to ensure that 0% depreciation rate buildings are depreciated appropriately in associated person transactions.

Clause 68 amends section EE 44 to correct a fault of expression.

Clause 69 amends section EJ 10B to correct faults of expression.

Clause 70 amends section EL 3 to properly account for income from foreign loans in the loss-making residential rental property rules.

Clause 71 amends section EM 1 as part of providing a new portfolio-based method for determining income and expenditure for fair dividend rate hedges.

Clause 72 amends section EM 3 to provide that, in some circumstances, no New Zealand dollar-denominated leg is required for a hedge under the proposed new portfolio-based method for determining income and expenditure for fair dividend rate hedges.

Clause 73 replaces section EM 4 as part of providing elections for the proposed new portfolio-based method for fair dividend rate hedges and consequentially amending and correcting the current hedge-by-hedge method.

Clause 74 amends section EM 5 as part of consequentially amending and correcting the current hedge-by-hedge method for fair dividend rate hedges.

Clause 75 inserts *new section EM 5B* to provide a new portfolio-based method for determining income and expenditure for fair dividend rate hedges.

Clause 76 amends section EM 6 as part of providing a new portfolio-based method for determining income and expenditure for fair dividend rate hedges and to specifically account for hedges entered into and settled within a single valuation period.

Clause 77 amends section EM 7 as part of providing a new portfolio-based method for determining income and expenditure for fair dividend rate hedges.

Clause 78 amends section EM 8 to provide new definitions as part of providing the proposed new portfolio-based method for fair dividend rate hedges and consequentially amending and correcting the current hedge-by-hedge method.

Clause 79 inserts *new section EW 5(3BA) and (3BAB)* to provide that a cryptoasset is an excepted financial arrangement, with an exception for a cryptoasset that produces a return for the owner at a rate that is known in advance.

Clause 80 amends section EW 46C to correct a matter of nomenclature (forgiven / remitted) and to ensure the ambit of the economic group debt remittance regime appropriately includes New Zealand-based companies.

Clause 81 amends section FH 11, which provides for the treatment of a transaction within the New Zealand tax base that is a source of funds for a payment producing a hybrid mismatch in a foreign tax jurisdiction that does not have hybrid mismatch legislation. All the clauses except *subclause (4)* come into force on 1 July 2018. *Subclause (1)* replaces subsection (1) with *new subsection (1)*, which clarifies the description of the 2 types of transaction to which the section applies, and *new subsection (1B)*, which clarifies the relationship, between the funds from a transaction and a funded payment producing the hybrid mismatch, that results in a deduction from the transaction being disallowed by the section. *New subsection (1B)* omits a former requirement that the funded payment be received in a country or territory outside New Zealand. *Subclause (2)* amends subsection (2), which states that the amount of the deduction that is disallowed is given by subsection (3) or (4), so that the subsection is subject to *new subsections (5) and (6)*. *Subclause (3)* replaces subsection (4) with *new subsection (4)*, which relates the amount of the deduction that is disallowed to the amount of the funded payment for which the foreign jurisdiction would disallow a deduction if the jurisdiction had hybrid mismatch legislation. *Subclause (4)* replaces subsection (5) with effect from the date on which the amendment receives the Royal assent. *New subsection (5)* gives the methods that must be used to determine whether funding is related to a payment in the foreign jurisdiction and, if so, the amount of the deduction that must be denied. *Subclause (5)* inserts *new subsection (6)*, which gives the conditions under which a deduction that is disallowed under subsection (2) in an income year may be allowed as a deduction in a later income year.

Clause 82 amends section FH 15, which gives definitions of terms used in the hybrid mismatch legislation. *Subclause (1)* replaces the definition of *hybrid mismatch* so that

the term is defined by reference to the effects of subpart FH. *Subclause (2)* amends the definition of *hybrid mismatch legislation* so that the term applies to legislation having the effect of all or part of subpart FH.

Clause 83 amends section FM 8 as a consequence of removing the exclusion for local authorities from the inter-corporate dividend exemption.

Clause 84 amends section FO 2 to correct a cross-reference.

Clause 85 amends section FO 21 to correct a minor fault of expression.

Clause 86 amends section GC 18 to correct the amount that is compared with the total group debt of the borrower's worldwide group.

Clause 87 replaces section HF 7, which defines *taxable Maori authority distribution*, to separate the requirement that the distribution not be a cash distribution to a member in relation to a notional distribution for which the Maori authority has made an election under section OB 82 from the requirements that relate to the income of the Maori authority that is the source of the distribution.

Clause 88 amends section HR 3 to replace the reference to the Housing New Zealand Corporation with a reference to Kāinga Ora—Homes and Communities.

Clause 89 amends section HR 9BA by replacing subsection (1) to provide for an additional way of making an election under section HR 9.

Clause 90 amends section LB 1B as a consequence of changing the heading to section OB 32.

Clause 91 amends section LE 2 to exclude local authorities from having a tax loss component for excess imputation credits.

Clause 92 amends section LY 5 to allow supporting R&D activities that occur immediately before or after the start or end of relevant core activities to be counted for the R&D tax credit.

Clause 93 amends section LY 9 to correct an entry in the list of defined terms.

Clause 94 amends section LY 10 to correct 2 entries in the list of defined terms.

Clause 95 amends section MD 9, which gives the fifth requirement for an entitlement to an in-work tax credit. *Subclause (1)* amends subsection (1)(a) to remove the requirement that the person who is normally an earner derive certain types of income as a full-time earner. The full-time earner requirement was removed on 1 July 2020, but was inadvertently reinserted on 1 April 2021. *Subclauses (2) and (3)* replace subsection (4) and amend subsection (5), respectively, as a consequence of the removal of the full-time earner requirement on 1 July 2020. *Subclause (4)* reinstates *full-time earner* in the list of defined terms, as it still appears in subsections (4) and (5).

Clause 96 amends section MX 3 to correct cross-references.

Clause 97 amends section OA 9 to correct a cross-reference.

Clause 98 amends section OB 4, which provides for imputation credits from payments of tax made by an ICA company. *Subclause (1)* replaces the heading to the section. *Subclause (2)* replaces subsection (1) to include imputation credits arising from

a transfer of excess tax to the company under section 173L or 173M of the Tax Administration Act 1994 or under section RC 32(5)(b). *Subclause (3)* inserts the cross-reference to the table containing the reference to the imputation credit and the transfer of excess tax to the ICA company. *Subclause (4)* amends subsection (4)(a) to introduce a cross-reference to *new paragraph (c)*. *Subclause (5)* replaces subsection (4)(b) with *new subsection (4)(c)*, which provides for the time at which the transfer affects the imputation credit account and permits the credit to be at the time that the transfer is requested, in some circumstances.

Clause 99 amends section OB 32, which provides for imputation debits from refunds of tax to an ICA company. *Subclause (1)* replaces the heading to the section. *Subclause (2)* amends subsection (1) to include imputation debits arising from a transfer of excess tax by the company under section 173L or 173M of the Tax Administration Act 1994 or under section RC 32(5)(b). *Subclause (3)* inserts the cross-reference to the table containing the reference to the imputation debit and the transfer of excess tax by the ICA company. *Subclause (4)* amends subsection (4) so that the application of the subsection is limited to the consequences of a refund of tax. *Subclause (5)* replaces subsection (6), which provides for the time at which the transfer affects the imputation credit account and permits the debit to be at the time that the transfer is requested, in some circumstances.

Clause 100 amends table O1 to reflect the amendments to section OB 4.

Clause 101 amends table O2 to reflect the amendments to section OB 32.

Clause 102 amends section OK 2, which provides for Maori authority imputation credits from payments of tax made by a Maori authority. *Subclause (1)* replaces the heading to the section. *Subclause (2)* amends subsection (1) to include imputation credits arising from a transfer of excess tax to the Maori authority from another period or tax type under section 173L of the Tax Administration Act 1994. *Subclause (3)* inserts the cross-reference to the table containing the reference to the imputation credit and the transfer of excess tax. *Subclause (4)* replaces subsection (4), which provides for the time at which the transfer affects the Maori authority credit account and permits the credit to be at the time that the transfer is requested, in some circumstances.

Clause 103 amends section OK 3, which provides for Maori authority imputation credits from transfers of excess tax made to the Maori authority by another Maori authority. *Subclause (1)* replaces the heading to the section. *Subclause (2)* replaces subsection (1) to include imputation credits arising from a transfer of excess tax to the Maori authority under 173M of the Tax Administration Act 1994 or under section RC 32(5)(b). *Subclause (3)* inserts the cross-reference to the table containing the reference to the imputation credit and the transfer of excess tax to the Maori authority. *Subclause (4)* replaces subsection (3) with *new subsection (4)*, which provides for the time at which the transfer affects the Maori authority credit account and permits the credit to be at the time that the transfer is requested, in some circumstances.

Clause 104 amends section OK 11, which provides for Maori authority imputation debits from transfers of excess tax made by a Maori authority. *Subclause (1)* replaces

the heading to the section. *Subclause (2)* replaces subsection (1) to include imputation credits arising from a transfer of excess tax by the Maori authority to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b). *Subclause (3)* inserts the cross-reference to the table containing the reference to the imputation debit and the transfer of excess tax. *Subclause (4)* replaces subsection (3), which provides for the time at which the transfer affects the Maori authority credit account and permits the credit to be at the time that the transfer is requested, in some circumstances.

Clause 105 amends section OK 12, which provides for Maori authority imputation debits from refunds of income tax made to a Maori authority. *Subclause (1)* replaces the heading to the section. *Subclause (2)* replaces subsection (1) to include imputation debits arising from a transfer of excess tax to another period or tax type by the Maori authority under section 173L of the Tax Administration Act 1994. *Subclause (3)* inserts the cross-reference to the table containing the reference to the imputation debit and the transfer of excess tax. *Subclause (4)* replaces subsection (6), which provides for the time at which the transfer affects the Maori authority credit account and permits the credit to be at the time that the transfer is requested, in some circumstances.

Clause 106 amends table O17 to reflect the amendments to sections OK 2 and OK 3.

Clause 107 amends table O18 to reflect the amendments to section OK 11 and OK 12.

Clause 108 amends section OP 12, which gives a consolidated imputation group an imputation credit for the amount of an imputation credit attached to a dividend derived by a group company, so that a consolidated imputation group to which a local authority belongs will not have an imputation credit for imputation credits attached to dividends derived by the local authority.

Clause 109 amends section OP 30, which gives a consolidated imputation group an imputation debit for the amount of a refund of income tax or provisional tax paid to the group, so that a consolidated imputation group to which a local authority belongs will not have an imputation debit for a refund of income tax or provisional tax paid to the local authority.

Clause 110 amends section RC 35B as a consequence of changing the heading to section OB 32.

Clause 111 amends section RC 38 so that the discount rate for the early-payment discount is related to the Commissioner's paying rate, rather than being set separately.

Clause 112 amends section RC 40 to include, in the definition of *small-business person*, a person who conducts a business on their own account as the owner of a look-through company.

Clause 113 amends section RD 5 to correct cross-references.

Clause 114 replaces section RD 45, which provides when an employer is liable to pay fringe benefit tax on an unclassified benefit provided to an employee, so that unclassified benefits provided by persons associated with the employer to employees of those

associated persons are only included in the relevant calculations if the employers are companies that are part of the same group of companies.

Clause 115 replaces section RD 67, which specifies the tax rate to be applied to an employer's superannuation cash contribution, to allow employers to pay tax at a rate of 33% (instead of 39%) on contributions that are for the benefit of past employees.

Clause 116 amends section RE 2 as a consequence of removing the exclusion for local authorities from the inter-corporate dividend exemption.

Clause 117 amends section RE 10C to clarify that a non-resident custodial institution is an end investor. Where a non-resident custodial institution has a New Zealand branch, the amendments confirm that the branch must withhold tax from payments of investment income they receive.

Clause 118 amends section RE 21 to provide more flexibility in relation to frequency of tax payments by persons who estimate they will be required to withhold less than \$500 of resident withholding tax each month.

Clause 119 amends section RF 12, which provides that NRWT is payable at a rate of 0% on some non-resident passive income, so that the exclusion for interest relating to related-party debt does not apply in some limited circumstances.

Clause 120 amends section RM 1, which gives the scope of subpart RM, to remove a redundant paragraph.

Clauses 121 and 122 amend sections RM 2 and RM 4, which specify the circumstances in which the Commissioner must refund overpaid tax, to deem, for the purposes of those sections, the provision by a person of a return for an amount of an ancillary tax for a period to be the making of an assessment of the amount of the ancillary tax by the person. As those sections require an assessment to have been made for overpaid tax to be refunded, the amendments will enable overpaid amounts of ancillary tax to be refunded.

Clause 123 amends section RM 27 as a consequence of changing the heading to section OK 2.

Clause 124 amends section RP 17 by replacing subsection (1) so that it refers to the list of purposes in section RP 17B for which funds in a tax pooling account may be used, instead of giving the same list of purposes.

Clause 125 amends section RP 17B, which governs the use of tax pooling accounts. *Subclause (1)* inserts *new subsection (2)(f)*, which refers to the use of an amount in a tax pooling account to satisfy a new liability as given by *new subsections (12) to (14)* inserted by *subclause (6)*. *Subclause (2)* amends subsection (4), which gives the period in which a person may use funds in a tax pooling account to satisfy an obligation for provisional tax or terminal tax for a tax year or for interest under Part 7 of the Tax Administration Act 1994. The subclause replaces subsection (4)(a) and (b) so that the funds may be used from the beginning of the person's income year that corresponds to the tax year. *Subclauses (3) to (5)* repeal subsections (9) to (11) respectively. *Subclause (6)* inserts *new subsections (12) to (14)*, which replace and expand the repealed subsections. Funds in a tax pooling account may be used to satisfy a new

liability relating to any of a list of categories of tax in *new subsection (14)* if the way in which the person becomes aware of the new liability, and makes voluntary disclosure of the liability to the Commissioner, meets the requirements of *new subsection (12)* and the Commissioner notifies the person under *new subsection (13)* that the funds may be used to meet the new liability.

Clause 126 amends section RP 19 consequentially on the amendments to section RP 17B(4).

Clause 127 amends section YA 1. *Subclause (2)* inserts a new definition of *cryptoasset*. *Subclause (3)* replaces the definition of *date of acquisition* to update section headings and include a reference to the definition of that term in section CZ 39. *Subclause (4)* amends the definition of *decommissioning* to provide that plugged wells are not decommissioned unless the plugging is permanent. *Subclause (5)* amends the definition of *dwelling* to add a cross-reference to section CZ 40. *Subclause (6)* amends the definition of *election day worker* to generalise references to electoral officials and to extend the application of the election day worker tax code to advance voting workers. *Subclause (7)* amends the definition of *employer* by repealing a paragraph as a consequence of the amendment to section RD 45. *Subclauses (8) and (9)* replace the definition of *group of persons* to include a reference to the definition of that term in section CZ 40. *Subclause (10)* inserts new definitions of *hybrid entity* and *hybrid mismatch*, which refer to the definitions in section FH 15. *Subclause (11)* amends the definition of *nominal share* to correct a minor fault of expression. *Subclause (12)* inserts a new definition of *non-eligible asset*. *Subclause (13)* amends the definition of *principal settlor* to update the heading of a section referred to. *Subclause (14)* amends the definition of *proportional debt ratio* to correct a minor fault of expression. *Subclause (15)* amends the definition of *proportional ownership ratio* to correct a minor fault of expression. *Subclause (16)* amends the definition of *residential land* to correct a minor fault of expression. *Subclause (17)* amends the definition of *settlement* to correct a cross-reference and update a section heading.

Clause 128 amends section YA 4 to remove a reference to fax as a consequence of the amendments to sections 14F and 14G of the Tax Administration Act 1994.

Clause 129 amends section YC 13, which provides for corporate spin-outs of companies, to provide for the continuity of ownership of a company during the period in which its ownership is changed and it becomes a spun-out company under the section.

Clause 130 amends section YE 1 to correct a date in the definition of *early balance date*.

Clause 131 amends section YZ 5, which provides that the New Zealand Memorial Museum Trust—Le Quesnoy is a donee organisation, to replace the date on which the effect of the section ends.

Clause 132 amends schedule 21B to ensure that RDTI transition support payments are appropriately reflected for the purposes of R&D tax credits.

Clause 133 amends schedule 32, which lists organisations to which a charitable or other public benefit donation entitles the donor to a deduction.

Part 4 Amendments to other enactments

Amendments to Tax Administration Act 1994

Clause 134 sets out the clauses that amend the Tax Administration Act 1994.

Clause 135 amends section 3. *Subclause (2)* amends the definition of *civil penalty* to bring the new penalty for acquiring or possessing electronic sales suppression tools within the meaning of that term. *Subclause (3)* inserts a definition of *electronic sales suppression tool*. *Subclause (4)* amends the definition of *employment income information* to insert cross-references to *new section 108AB* and section 108B. *Subclause (5)* amends the definition of *proscribed question* to remove superfluous wording. *Subclause (6)* amends the definition of *START tax type* by inserting 3 new tax types with effect from 1 March 2021. *Subclause (7)* repeals the definition of *START tax type* with effect from 1 April 2022, when the definition is expected to cease to be relevant for the administration of tax. *Subclause (8)* amends the definition of *tax shortfall* to correct a cross-reference.

Clause 136 amends section 14 to remove a reference to fax as a consequence of the amendments to sections 14F and 14G.

Clause 137 amends section 14F to remove fax as an approved mode of communication between a person and the Commissioner.

Clause 138 amends section 14G to remove a fax number as a permitted contact address for the delivery of information under section 14F(2) and (4).

Clause 139 amends section 16C to clarify the meaning of *revenue information* and *sensitive revenue information*.

Clause 140 amends section 25MB to clarify that a non-resident custodial institution is an end investor. Where a non-resident custodial institution has a New Zealand branch, the amendments confirm that the branch must report investment income information relating to payments of investment income they receive.

Clause 141 inserts *new section 25NB* to provide for less onerous investment income information reporting requirements for certain persons.

Clause 142 inserts *new section 33F* to allow more time for filing a supplementary return for research and development tax credits.

Clause 143 amends section 43B, which limits the obligations to make tax returns for trustees of trusts that are referred to in the section as non-active trusts. The amendments extend the application of the section to the executors or administrators of estates that are non-active in the same way as the trustees to which the section applies. *Subclause (1)* amends the heading to the section. *Subclause (2)* replaces subsections (1) and (2) so that the criteria for an estate to be non-active are the same as for a trust and the requirements for an executor or administrator to be excused from making a return of income are the same as for a trustee. *Subclauses (3) to (5)* make consequential amendments.

Clause 144 amends section 68CB to allow more time for variations to general approvals in relation to supporting research and development activities, in some circumstances.

Clause 145 inserts *new section 68CF* to allow more time for applications for, and variations to, approvals in relation to research and development tax credits for the 2020–21 income year.

Clauses 146, 147, 154, and 156 amend sections 89B, 89L, 125, and 138P as a consequence of establishing a time bar for amending an assessment of KiwiSaver contributions. These sections contain references to existing time bar provisions and the amendments add references to the new time bar provision.

Clause 148 amends section 89P to clarify that the Commissioner is not required to issue a challenge notice where, following completion of the disputes process in a taxpayer-initiated dispute, an assessment is issued that reflects some but not all of the adjustments proposed by the taxpayer.

Clause 149 amends section 108 to establish a time bar for amending an assessment of the ACC earners' levy so as to increase an amount assessed. This new time bar is aligned with the existing time bar for amending an assessment of the income tax component of PAYE deductions.

Clause 150 inserts *new section 108AB*, which establishes a time bar for amending an assessment of KiwiSaver contributions so as to increase an amount assessed.

Clause 151 amends section 108B, which allows existing time bars to be extended in certain circumstances, so that the section also allows the new time bar for amending an assessment of KiwiSaver contributions to be extended in the same circumstances.

Clause 152 amends section 113 to remove a cross-reference to a repealed provision.

Clause 153 amends section 113A by adding some missing words to ensure the provision works as intended for errors in fringe benefit tax returns.

Clause 155 amends section 138E to clarify that the disputes and challenge processes in the Tax Administration Act 1994 do not apply in relation to decisions of the Commissioner using the remedial powers in that Act.

Clauses 157, 158, and 159(1) remove a Commissioner's discretion in relation to late filing penalties, non-electronic filing penalties, and late payment penalties from sections 139A, 139AA, and 139B.

Clause 159(2) and (3) amends section 139B to correct cross-references.

Clause 160 inserts *new section 141EE*, which establishes a civil penalty of \$5,000 for acquiring or possessing an electronic sales suppression tool.

Clause 161 amends section 141FB, which provides for a 50% reduction of shortfall penalties for evasion for prior good behaviour, so that the reduction is not applied where the use of a suppression tool contributed to the evasion.

Clause 162 inserts *new section 141GB*, which provides for a reduction in the new civil penalty for acquiring or possessing an electronic sales suppression tool where

the person liable to pay the penalty voluntarily discloses to the Commissioner details relating to the acquisition, possession, control, or use of the electronic sales suppression tool.

Clause 163 amends section 143, which provides for absolute liability offences, as a consequence of the changes to the GST Act, including the abolition of tax invoices, credit notes, and debit notes. *Subclause (1)* amends the section heading to show that the offences may be absolute liability offences or strict liability offences. *Subclause (2)* amends subsection (1)(ba) so that the offence relates to the supply of taxable supply information. *Subclause (3)* consequentially amends subsection (1)(c). *Subclause (4)* inserts *new subsection (1)(d)*, which is a strict liability offence relating to excessive claims for input tax. *Subclause (5)* inserts *new subsection (2D)*, which provides for a defence of reasonable care to the offence inserted by *subclause (4)*.

Clause 164 amends section 143A, which provides for knowledge offences, as a consequence of the changes to the GST Act, including the abolition of tax invoices, credit notes, and debit notes. *Subclause (1)* repeals subsection (1)(f), which relates to the issue of tax invoices. *Subclauses (2) and (3)* correct cross-references to repealed provisions.

Clause 165 inserts *new sections 143BB and 143BC*. *New section 143BB* establishes a criminal penalty for manufacturing or supplying an electronic sales suppression tool. A person convicted of such an offence will be liable to a fine of up to \$250,000. *New section 143BC* establishes a criminal penalty for acquiring or possessing an electronic sales suppression tool. A person convicted of such an offence is liable to a fine of up to \$50,000.

Clause 166 amends section 143D, which provides for offences related to the disclosure of certain information by persons other than revenue officers, to bring employees of other government agencies within the scope of the provision.

Clause 167 amends section 157A, which provides that a person is liable to be prosecuted for an offence for failing to deduct an amount from payments to a taxpayer when the deduction is required by a notice from the Commissioner under certain provisions, to include express reference to section 12L of the Gaming Duties Act 1971.

Clause 168 amends section 173K, which provides as a general rule that a transfer by a taxpayer of tax paid in excess is treated as a refund to the transferor and tax paid in excess that is transferred to a taxpayer is treated as tax paid by the transferee. The clause inserts a *new subsection (3)*, which provides that the general rule does not apply to Part O of the Income Tax Act 2007, which relates to memorandum accounts.

Clause 169 amends section 183ABAB, which provides for remission of interest payable by taxpayers affected by COVID-19. The amendment replaces subsection (4) to authorise an Order in Council extending the time limit imposed by subsection (3)(b).

Clause 170 amends section 183C as a consequence of the repeal of the definition of *START tax type*, which comes into force on 1 April 2022.

Clause 171 amends section 225, which authorises the making of regulations for several purposes. The amendments repeal powers that are no longer required.

Clause 172 repeals section 225AA, which authorises the making of regulations relating to co-operative dairy companies, co-operative milk marketing companies, and co-operative pig marketing companies. The regulations made under the powers are being revoked and the powers are no longer required.

Clause 173 amends schedule 7. *Subclause (1)* amends clause 23B, which enables Inland Revenue to share information with other government agencies for COVID-19 response purposes, to remove the sunset provision. *Subclauses (2) and (3)* repeal clauses that enable Inland Revenue to disclose certain information to the Registrar of Companies and the Accident Compensation Corporation.

Clause 174 amends schedule 8. *Subclause (1)* corrects a cross-reference. *Subclause (2)* corrects a description of an amount of a type of income.

Amendments to Child Support Act 1991

Clause 175 sets out the clauses that amend the Child Support Act 1991.

Clause 176 amends section 40AA. The amendment to paragraph (c) of the definition of *election period* corrects a fault of expression to ensure that backdated estimations of income are able to cover the child support year in which they are made. Paragraph (b) of that definition is consequentially amended.

Clause 177 amends section 40. *Subclause (1)* inserts *new subsection (4)(da)* to require the Commissioner to refuse to accept an election by a person to estimate their income if notice of the election is given after the child support year to which it relates and the person has already estimated their income for that child support year. *Subclause (2)* amends subsection (8) to correct a fault of expression to ensure that backdated estimations are able to cover the child support year in which they are made. *Subclause (3)* consequentially amends subsection (9).

Clause 178 amends section 44 to insert *new subparagraph (ia)* into paragraph (a) of the definition of *reconciliation period* to provide that a reconciliation period for a backdated estimation starts on the first day of the month in which the formula assessment begins, rather than the first day of the month in which the notice is given. This is intended to enable backdated estimations to be squared-up accurately.

Clause 179 replaces section 81A, which specifies when the Commissioner may backdate an amendment to an assessment, to expressly provide that, in order to exercise this discretion, the Commissioner must be satisfied that the assessment was made on the basis that certain living circumstances existed at the time when the assessment begins that did not in fact exist at that time, and that the relevant living circumstances advised by the recipient of the assessment did exist at that time. The replacement section also requires the recipient to have provided to the Commissioner such supporting documentation as the Commissioner requires before the Commissioner may exercise the discretion.

Clause 180 amends section 87A, which sets a time bar of 4 years for amendment of certain assessments. *Subclause (1)* amends subsection (1) to provide that the Commissioner may only amend an assessment within 4 years from the end of the child sup-

port year to which the assessment relates, rather than within 4 years from the end of the child support year in which the assessment was given. *Subclause (2)* amends subsection (3), which provides an exception when a liable person has a dual liability with an overseas jurisdiction and has paid financial support in that overseas jurisdiction, to enable the exception to also be applied when a person has been assessed for, but has not paid, financial support in an overseas jurisdiction.

Clause 181 amends section 88 to align wording with replacement section 81A.

Clause 182 amends section 89H, which relates to applications for exemptions from payment of financial support, to require a person applying for an exemption on the grounds of a long-term period of illness to provide evidence that they are unable to engage in paid work as a result of the long-term period of illness.

Clause 183 amends section 152B, which relates to the offsetting of child support liabilities, to allow the Commissioner to offset liabilities under voluntary agreements.

Clause 184 amends section 180D to update terminology so that it is aligned with the terminology currently used in section 135.

Clause 185 amends Schedule 1, which contains application, transitional, and savings provisions, to remove unnecessary provisions from Part 4 and insert a *new Part 5* relating to amendments made by this Bill.

Clause 186 amends Schedule 3 to delete redundant wording from a heading in a table.

Amendments to KiwiSaver Act 2006

Clause 187 sets out the clauses that amend the KiwiSaver Act 2006.

Clause 188 amends section 4. *Subclause (2)* inserts a definition of *assessment*, which is used in *new section 91B*. *Subclause (3)* amends the definition of *employer contribution* to, in cases where an employer knows that an employee has opted out of the overall KiwiSaver scheme, exclude an amount that would otherwise be an employer contribution.

Clauses 189, 190, 191, 194, 195, 196, and 197 amend sections 80, 81, 81B, 100, 101, 101AA, 114, which are existing refund provisions, to make them subject to the new time bar for refunds of excess employee and employer contributions that have arisen on an amended assessment.

Clause 192 amends section 83 to correct a modification of how the Unclaimed Money Act 1971 applies to money that has been in the possession of the Commissioner under the KiwiSaver Act 2006 for at least 5 years and about which the Commissioner has insufficient information to process in the usual way.

Clause 193 inserts a *new cross-heading and section 91B* into Part 3, subpart 2. The new section establishes a time bar for refunds of excess employee and employer contributions that have arisen on an amended assessment.

Amendments to Student Loan Scheme Act 2011

Clause 198 sets out the clauses that amend the Student Loan Scheme Act 2011 (the SLSA).

Clause 199 amends section 211 to remove fax as an approved means of notifying a person under the SLSA.

Clause 200 amends section 212 to remove fax as an approved means of notifying a person in writing under the SLSA.

Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020

Clause 201 repeals sections 2(37), 235, and 239(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020. Those provisions enable schedule 7, part A, clause 7 of the Tax Administration Act 1994 (which enables Inland Revenue to disclose certain information to the Serious Fraud Office) to be repealed, and a cross-reference to that clause in section 143D of that Act to be removed, by Order in Council.

Revocation of Co-operative Dairy Companies Income Tax Regulations 1955

Clause 202 revokes the Co-operative Dairy Companies Income Tax Regulations 1955.

Revocation of Cooperative Milk Marketing Companies Income Tax Regulations 1960

Clause 203 revokes the Cooperative Milk Marketing Companies Income Tax Regulations 1960.

Revocation of Cooperative Pig Marketing Companies Income Tax Regulations 1964

Clause 204 revokes the Cooperative Pig Marketing Companies Income Tax Regulations 1964.

Hon David Parker

Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill

Government Bill

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49	Section CB 16A amended (Main home exclusion for disposal within 10 years)	44
50	Section CD 5 amended (What is a transfer of company value?)	44
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**Taxation (Annual Rates for 2021–22, GST, and
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60	Section DB 11 amended (Negative base price adjustment)	47
61	Section DB 20B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)	47
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*Revocation of Cooperative Pig Marketing Companies Income
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204 Cooperative Pig Marketing Companies Income Tax Regulations 97
1964 revoked

Schedule 98

New Part 5 inserted into Schedule 1 of Child Support Act 1991

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act **2021**.

2 Commencement 5

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.
- (2) **Sections 47, 80(1), (2), (4), (6), (7), (8), (9), (10), and (11), 84, 87, 97, and 130** come into force on 1 April 2008.
- (3) **Sections 5(2) and (3), 79, and 127(2)** come into force on 1 January 2009. 10
- (4) **Section 7(2)** comes into force on 1 April 2010.
- (5) **Section 68** comes into force on 4 September 2010.
- (6) **Sections 21(4) and 67** come into force on 1 April 2011.
- (7) **Section 61** comes into force on 1 April 2013.
- (8) **Sections 96, 113, and 119** come into force on 30 March 2017. 15
- (9) **Sections 22 and 120** come into force 1 April 2017.
- (10) **Sections 7(1) and 80(5)** come into force on 1 July 2017.
- (11) **Sections 81(1), (2), (3), and (5), 82, 86, and 127(10)** come into force on 1 July 2018.
- (12) **Section 69** comes into force on 1 January 2019. 20
- (13) **Section 139** comes into force on 18 March 2019.
- (14) **Sections 56, 64, 66, 93, 94, 132, 135(8), 142, 152, and 159(2) and (3)** come into force on 1 April 2019.
- (15) **Section 135(5)** comes into force on 1 October 2019.
- (16) **Sections 7(4) and 25** come into force on 24 February 2020. 25
- (17) **Section 153** comes into force on 23 March 2020.
- (18) **Sections 92, 117, 140, 144, 145, and 174** come into force on 1 April 2020.
- (19) **Section 133(2)** comes into force on 4 May 2020.

- (20) **Section 95(2), (3), and (4)** come into force on 1 July 2020.
- (21) **Section 88** comes into force on 30 January 2021.
- (22) **Section 135(6)** comes into force on 1 March 2021.
- (23) **Sections 48, 49, 57, and 127(3), (5), (8), (13), (16), (17), and (18)** come into force on 27 March 2021. 5
- (24) **Sections 127(9) and 192** come into force on 30 March 2021.
- (25) **Sections 95(1), 131, 133(3), 184, and 185(1) and (2)** come into force on 1 April 2021.
- (26) **Section 129** comes into force on the date of introduction of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill. 10
- (27) **Section 169** comes into force on 25 March 2022.
- (28) **Sections 51, 54, 55, 58, 59, 60, 63, 71, 72, 73, 74, 75, 76, 77, 78, 83, 91, 108, 109, 114, 115, 116, 127(6), (7), and (12), 135(7), 141, 143, 157, 158, 159(1), 170, 176, 177, 178, 179, 180, 181, 182, 183, 185(3), and 186** come into force on 1 April 2022. 15
- (29) **Section 173(2)** comes into force on a date to be set by Order in Council.
- (30) **Section 173(3)** comes into force on a date to be set by Order in Council.
- (31) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1 20

Annual rates of income tax

- 3 Annual rates of income tax for 2021–22 tax year**
- Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2021–22 tax year, be paid at the basic rates specified in schedule 1 of that Act. 25

Part 2

Amendments to Goods and Services Tax Act 1985

- 4 Amendments to Goods and Services Tax Act 1985**
- This Part amends the Goods and Services Tax Act 1985.
- 5 Section 2 amended (Interpretation) 30**
- (1) In section 2(1),—
- (a) insert, in appropriate alphabetical order:
- GST group** means a group of persons that meets the requirements of section 55

- (b) insert, in appropriate alphabetical order:
GST trade name, for a person and a supply of goods or services, means—
- (a) the trading name used by the person for the purposes of making taxable supplies that at the time of the supply is most recently provided to, or recorded by, the Commissioner; or 5
- (b) the name of the person
- (c) insert, in appropriate alphabetical order:
issuing member means the member responsible under **section 55B** for issuing the taxable supply information for each supply made by a member of a GST group or supplier group 10
- (d) insert, in appropriate alphabetical order:
member supply means a supply by a member of a supplier group
- (e) replace the definition of **Pharmac** with:
Pharmac means the Pharmaceutical Management Agency established by section 46 of the New Zealand Public Health and Disability Act 2000 15
- (f) replace the definition of **Pharmac agreement** with:
Pharmac agreement means an agreement to which Pharmac is a party and under which Pharmac agrees to list a pharmaceutical on the pharmaceutical schedule as defined in section 6 of the New Zealand Public Health and Disability Act 2000 20
- (g) replace the definition of **pharmaceutical** with:
pharmaceutical means a pharmaceutical as defined in section 6 of the New Zealand Public Health and Disability Act 2000
- (h) insert, in appropriate alphabetical order:
recipient details, for a recipient of a taxable supply of goods or services, means— 25
- (a) the GST trade name of the recipient; and
- (b) one or more of the following items of information that are peculiar to the recipient:
- (i) an address of a physical location for the person such as a mailing or billing address: 30
- (ii) a telephone number:
- (iii) an email address:
- (iv) a trading name other than the GST trade name:
- (v) a New Zealand business number: 35
- (vi) a Uniform Resource Locator address for a web site
- (i) insert, in appropriate alphabetical order:

supplier group means a group of 2 or more registered person who enter an agreement meeting the requirements of **section 55B** that 1 supplier is to issue the tax supply information for each supply of goods and services by 1 or more members of the group

(j) insert, in appropriate alphabetical order: 5

supply correction information means information issued by a registered person under **section 19N** relating to an error in the taxable supply information issued for a taxable supply

(k) insert, in appropriate alphabetical order:

supply information, for a supplier and a recipient of a supply of goods or services, means information issued for the supply that includes— 10

- (a) the GST trade name of the supplier; and
- (b) the recipient details of the recipient; and
- (c) the amount of the consideration that the recipient is obliged to provide to the supplier for the supply 15

(l) insert, in appropriate alphabetical order:

taxable supply information, for a taxable supply of goods or services, means information that is—

- (a) provided under **section 19K(1)** by the supplier to the recipient, that includes the details required by **section 19K(8)**: 20
- (b) provided under **section 19K(4)** by the recipient to the supplier, that includes the details required by **section 19K(8)**:
- (c) provided under **section 19K(12)** by the supplier to the recipient, that includes the details required by **section 19K(8)**:
- (d) provided under **section 55B** by the issuing supplier to the recipient, that includes the details required by **section 19L**: 25
- (e) provided under **section 19M** by a supplier of distantly taxable goods to the recipient, that includes the details required by **section 19M(2)**:
- (f) a tax invoice issued before the first taxable period for the issuer beginning on or after the date on which the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act **2021** receives the Royal assent 30

(2) In section 2(1),—

(a) insert, in appropriate alphabetical order:

cryptoasset means a digital representation of value that—

- (a) exists in— 35
 - (i) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralised form and shared across different locations and persons; or

- (ii) another application of the same technology performing an equivalent function; and
- (b) is designed to be fungible
- (b) replace the definition of **services** with:
- services** means anything which is not goods or money or cryptoassets 5
- (3) In section 2(1), definition of **goods**, replace “money or” with “money, cryptoassets, or”.
- 6 Section 3A amended (Meaning of input tax)**
- (1) After section 3A(2)(a), insert:
- (ab) the supply is not of goods that— 10
- (i) were acquired before 1 October 1986 by the registered person or an associated person of the registered person; and
- (ii) have not been owned, since that acquisition, by a person who is not the registered person and not an associated person of the registered person; and 15
- (2) Replace section 3A(3)(a)(i) with:
- (i) for goods received by the supplier from a person who is not an associated person, the tax fraction of the purchase price for the supplier; and
- (ib) for goods received by the supplier from an associated person, the tax fraction of the purchase price for the most recent acquisition of the supply by an associated person from a person who is not an associated person; and 20
- (3) **Subsections (1) and (2)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 25
- 7 Section 5 amended (Meaning of term supply)**
- (1) In section 5(6AB), replace “the Commission” with “Fire and Emergency New Zealand”.
- (2) In section 5(6E)(b)(ii), replace “paragraphs (c) and (d)” with “paragraph (a)”.
- (3) In section 5(8A), after “member of the body corporate”, insert “, other than as reimbursement for a payment by the body corporate of an amount that would, if not charged to the body corporate, be payable by the member for an exempt supply to the member,”. 30
- (4) Repeal section 5(18).
- (5) In section 5(23),— 35
- (a) replace “supply of goods” with “taxable supply of goods”:
- (b) replace “on the date of settlement” with “on the date on which the error is found”.

8 Section 6 amended (Meaning of term taxable activity)

In section 6(3)(c)(iii), delete “statutory”.

9 New section 8AA inserted (Organisation of Act’s provisions)

Before section 8, insert:

8AA Organisation of Act’s provisions	5
<i>Definitions and interpretation</i>	
(1) Part 1 of the Act contains definitions used in the Act.	
<i>Imposition of tax</i>	
(2) In Part 2, section 8 imposes the tax—	
(a) at a rate of 15%:	10
(b) on a supply, other than an exempt supply, of goods and services:	
(c) in New Zealand:	
(d) on or after 1 October 1986:	
(e) by a registered person:	
(f) in a taxable activity carried on by the registered person:	15
(g) by reference to the value of the supply.	
<i>Imposition of tax on imported goods</i>	
(3) Section 8 is supplemented by section 12, which imposes the tax on the importation of goods, other than fine metal, at the rate of 15% by reference to the value of the goods.	20
<i>Rate of taxation zero for some supplies</i>	
(4) Some supplies are charged the tax at a rate of 0%, as an exception to the rate of 15% given by section 8, under—	
(a) section 8(2C) to (2F) (transitional provisions relating to the facilitation of inbound tour operations):	25
(b) section 11 (zero-rating of goods):	
(c) section 11A (zero-rating of services):	
(d) section 11AB (zero-rating of telecommunications services):	
(e) section 11B (zero-rating of some supplies by territorial authorities and some supplies to local authorities):	30
<i>Exempt supplies</i>	
(5) Section 14 provides that some supplies are exempt from the tax.	
<i>Place of supply</i>	
(6) Rules for determining the place of a supply are given by—	
(a) section 8(2), (3), (4), (4B), (4D), (4E), (6), and (8):	35

(b)	section 8A (certain supplies of telecommunications services):	
(c)	section 8B (supplies of remote services to resident in New Zealand).	
	<i>Time of supply</i>	
(7)	Section 9 gives rules for determining the time at which a supply of goods and services takes place.	5
	<i>Registration of person</i>	
(8)	The provisions in Part 8 give rules for the registration of a person under the Act, including rules under which a person who has not applied for registration is treated as being a registered person.	
	<i>Special cases of registered person</i>	10
(9)	The provisions in Part 9 give rules for situations in which the registered person that is treated as making a taxable supply of goods and services for the purposes of the Act differs from the person who would usually be treated as making the supply.	
	<i>Taxable period for registered person</i>	15
(10)	Sections 15 to 15EB give the rules for determining the taxable period for a registered person, which is the period for which the registered person must report the taxable supplies made and received and must calculate the tax required to be paid.	
	<i>Accounting basis for returning and calculating tax</i>	20
(11)	Sections 19 to 19D give the rules for determining the accounting basis to be used by a registered person in calculating the tax payable and in making returns.	
	<i>Obligations of registered person for information about supply made or received</i>	
(12)	Sections 19E to 19N give the rules for the issuing of information by a registered person involved in the making or receipt of a supply.	25
	<i>Calculation of tax payable by registered person</i>	
(13)	Sections 20 to 22 and 25 to 26A give the rules for the calculation of the tax payable by a registered person for a taxable period.	
	<i>Payment of tax</i>	30
(14)	Sections 23 and 23A give rules for the payment of tax.	
	<i>Recovery of tax</i>	
(15)	Part 6 gives the Commissioner powers to recover amounts of tax payable.	
	<i>Refunds and relief from tax</i>	
(16)	Part 7 gives the Commissioner powers in making refunds of excess tax paid.	35
	<i>Obligation to keep records</i>	
(17)	Section 75 gives general obligations of a registered person to retain and maintain records of the registered person's activities and liability to tax.	

	<i>Communicating information</i>	
(18)	Section 75B gives general rules about ways of giving and communicating information.	
10	Section 11 amended (Zero-rating of goods)	
	Replace section 11(1)(eb)(i) with:	5
	(i) are supplied to a recipient; and	
11	Section 11A amended (Zero-rating of services)	
	In section 11A(1)(c), delete “to the extent that the services are supplied by the same supplier”.	
12	New section 12C inserted (Information for importation of goods including distantly taxable goods)	10
(1)	After section 12B, insert:	
12C	Information for importation of goods including distantly taxable goods	
	A registered person who makes a supply of distantly taxable goods, on which tax at a rate greater than 0% is charged under section 8(1), must take reasonable steps to ensure that the New Zealand Customs Service has available, by the time of the importation of the goods,—	15
	(a) the GST trade 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:	20
	(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
(2)	Subsection (1) applies for taxable periods starting on or after the day on which this Act receives the Royal assent.	
13	Section 15 amended (Taxable periods)	
(1)	In section 15(1), words before the paragraphs, after “following”, insert “or a period described in section 15E(2) that is equivalent to one of the following”.	30
(2)	In section 15(5)(a), after “last day of a month”, insert “or is a period of approximately 12 months consisting of taxable periods approved for the person and described in section 15E(2) ”.	
(3)	Subsections (1) and (2) apply for taxable periods starting on or after the day on which this Act receives the Royal assent.	35

14 Section 15B amended (Taxable periods aligned with balance dates)

- (1) After section 15B(4), insert:
- (4B) For the purposes of subsection (4), the GST cycle of a person with a taxable period described in **section 15E(2)** is aligned with the person’s balance date if the end of a taxable period for the person corresponds under **section 15E(2B)** with the end of the month in which the balance date occurs. 5
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

15 Section 15C amended (Changes in taxable periods)

- (1) In section 15C(1), replace “6-month period” with “6-month period, or to an equivalent period described in **section 15E(2)**,”. 10
- (2) In section 15C(3), replace “2-month period” with “2-month period, or to an equivalent period described in **section 15E(2)**”.
- (3) In section 15C(3B), replace “1-month period” with “1-month period, or to an equivalent period described in **section 15E(2)**”. 15
- (4) In section 15C(3C), replace “2-month period” with “2-month period, or to an equivalent period described in **section 15E(2)**”.
- (5) **Subsections (1), (2), (3), and (4)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.

16 Section 15D amended (When change in taxable period takes effect) 20

- (1) In section 15D(1)(a), after “is set”, insert “to a period consisting of calendar months”.
- (2) After section 15D(1)(a), insert:
- (ab) applies under section 15C to change the basis on which the person’s taxable period is set to a period described in **section 15E(2)** and not consisting of calendar months; or 25
- (3) In section 15D(2), after “in taxable period”, insert “under subsection (1)(a) or (b)”.
- (4) After section 15D(2), insert:
- (2B) A change in taxable period under **subsection (1)(ab)** takes effect at— 30
- (a) the end of the taxable period in which the person applies; or
- (b) the end of a later taxable period nominated by the registered person and approved by the Commissioner.
- (5) **Subsections (1), (2), (3), and (4)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 35

17 Section 15E amended (Meaning of end of taxable period)

- (1) Replace section 15E(2) with:

- (2) Despite subsection (1), a registered person may apply under section 15C to the Commissioner for approval under **section 15EB** to have a taxable period that is—
- (a) equivalent to a 1-month period and has a last day that is an approved date of the month; or 5
 - (b) equivalent to a 1-month period and has a last day that is an approved day of the 4th week in each taxable period; or
 - (c) equivalent to a 2-month period and has a last day that is an approved date of the second month in each taxable period; or
 - (d) equivalent to a 2-month period and has a last day that is an approved day of the 8th week in each taxable period; or 10
 - (e) equivalent to a 6-month period and has a last day that is an approved date not more than 7 days before or after the last day of the sixth month in each taxable period; or
 - (f) equivalent to a 6-month period and has a last day that is an approved day of the week not more than 7 days before or after the last day of the sixth month in each taxable period. 15
- (2B) If a registered person has a taxable period with an approved last day or date that is not the last day of the month, the approved day or date for each taxable period and the end of the month to which the day or date is treated as corresponding for the purposes of the Act are determined using the following rules: 20
- (a) if an approved day or date for a month is before or on the fifteenth day of the month, the approved day or date is treated as corresponding to the end of the preceding month; and
 - (b) if an approved day or date for a month is after the fifteenth day of the month, the approved day or date is treated as corresponding to the end of the month; and 25
 - (c) successive taxable periods end on successive approved days or dates, unless **subsection (2C)** applies.
- (2C) A taxable period that starts after an approved day (the **change day**) ends on the second approved day following the change day if— 30
- (a) the change day is treated under **subsection (2B)** as corresponding to the end of the month of the change day; and
 - (b) the first approved day after the change day is treated under **subsection (2B)** as corresponding to the end of the month of the change day. 35
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

18 New section 15EB inserted (Approval of taxable period not consisting of whole calendar months)

- (1) After section 15E, insert:

15EB Approval of taxable period not consisting of whole calendar months

- (1) The Commissioner may approve under section 15C an end date for the taxable period of a registered person that is not the last day of the month if the Commissioner is satisfied that commercial considerations specific to the registered person and the end date provide good commercial reasons for the registered person's chosen date. 5
- (2) The Commissioner may approve under section 15C a day of the week as the last day for the taxable period of a registered person if the Commissioner is satisfied that— 10
- (a) the use of the day requested would improve the alignment of the registered person's taxable periods with the registered person's accounting systems; and 15
- (b) if the registered person is requesting a last day that is not within 7 days of the end of the month, the registered person's accounting systems do not allow the use of a last day within 7 days of the end of the month.
- (3) If a registered person receives approval under **subsection (1) or (2)** for a taxable period (the **new period**) that differs from the taxable period (the **old period**) for which the person makes returns before the approval is given,— 20
- (a) the last old period for which the registered person makes a return must end on or before the day that precedes, by the length of a new period, the first day or date approved for the new period; and
- (b) the first new period for which the registered person makes a return begins after the end of the last old period referred to in **paragraph (a)**. 25
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

19 New cross-headings and sections 19E to 19P inserted

- (1) After section 19D, insert: 30

*Records of supplies***19E Records of taxable supplies made by registered person**

- (1) A registered person who makes a taxable supply of goods or services must meet the requirements of **subsection (2)** for a record of the supply.
- (2) The person must have a record of the supply showing— 35
- (a) the GST trade name and registration number of the supplier; and

(b)	recipient details for the recipient, if taxable supply information is issued for the supply; and	
(c)	the address of a physical location for the recipient, if the address is available to the person and not included in the recipient details referred to in paragraph (b) ; and	5
(d)	the date on which the taxable supply information for the supply is issued, if applicable; and	
(e)	the date on which payment for the supply is made, or the time of the supply if that time is determined other than under section 9(1); and	
(f)	a description of the goods or services supplied; and	10
(g)	the consideration for the supply; and	
(h)	the tax charged for the supply.	
19F	Records of taxable supplies received by registered person	
(1)	A registered person who receives a taxable supply of goods or services must meet the requirements of subsection (2) for a record of the supply.	15
(2)	The person must have a record of the supply showing—	
(a)	the GST trade name and registration number of the supplier; and	
(b)	a description of the goods or services supplied; and	
(c)	the consideration for the supply; and	
(d)	the time, or anticipated time, of the supply; and	20
(e)	the amount of input tax calculated and claimed as a deduction for the supply; and	
(f)	the other information used in calculating the amount of input tax claimed.	
19G	Records of imported supplies received by registered person	25
(1)	A registered person who receives a supply of goods or services that is treated by section 8(4B) as being made in New Zealand, or who is required to account for output tax under section 20(3JC), must meet the requirements of subsection (2) for a record of the supply.	
(2)	The person must have a record of the supply showing—	30
(a)	the name and address of the supplier:	
(b)	the date on which, or the period during which, the supply was received:	
(c)	a description of the goods or services supplied:	
(d)	the consideration for the supply:	
(e)	the time by which payment of the consideration for the supply is required:	35

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

(g) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(b). 5

19H Records of secondhand goods received by registered person

(1) A registered person who receives a supply of secondhand goods that is not a taxable supply must meet the requirements of **subsection (2)** for a record of the supply if the consideration in money for the supply exceeds the threshold amount under **subsection (3)**. 10

(2) The person must have a record of the supply showing—

(a) the GST trade name and address of the supplier; and

(b) the date on which the taxable supply information for the supply is issued; and 15

(c) the date on which the secondhand goods were supplied; and

(d) a description of the secondhand goods; and

(e) the quantity or volume of the secondhand goods; and

(f) the consideration for the supply; and

(g) the amount of input tax calculated and claimed as a deduction for the supply; and 20

(h) the other information used in calculating the amount of input tax claimed.

(3) The threshold amount under this subsection is \$200 or a greater threshold amount that the Governor-General may, from time to time, declare by Order in Council. 25

(4) An Order in Council made under **subsection (3)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

19I Records of supplies to nominated recipients

A person who is nominated to receive a supply of goods under a contract to which section 60B(3), (4), and (6) apply, and to which the person is not a party, must have a record of the supply showing— 30

(a) the name and address of the supplier; and

(b) the date on which payment for the supply is made; and

(c) a description of the goods; and 35

(d) the consideration for the supply.

19J Records of supplies by members of GST group or supplier group

Where taxable supply information to which **section 19L** applies has been issued in respect of a supply by a member of a GST group or supplier group, the member issuing the taxable supply information must keep a record of the supply that includes—

- (a) the GST trade name of the supplier; and
- (b) the address of the supplier; and
- (c) the registration number of the supplier, if any.

Supply information and supply correction information

19K Taxable supply information: supplies by registered person

(1) A registered person who makes a taxable supply to another registered person must provide to the recipient taxable supply information that includes the information required by **subsection (8)** by the date given by **subsection (5)**.

(2) **Subsection (1)** is overridden by **subsections (4), (9), and (11)** and **section 19L**.

(3) A registered person who makes a taxable supply to a person other than a registered person must provide the recipient with taxable supply information that includes the information required by **subsection (8)**—

- (a) on the day of the supply, if the recipient requests the taxable supply information at the time of the supply; or
- (b) within 28 days of a request for the taxable supply information, if the recipient requests the taxable supply information after the time of the supply.

(4) A registered person who has a taxable supply from another registered person must provide the supplier with taxable supply information that includes the information required by **subsection (8)** if—

- (a) the recipient and supplier agree that—
 - (i) the supplier will not issue taxable supply information under **subsection (1)** for taxable supplies by the supplier to the recipient; and
 - (ii) the recipient will issue taxable supply information, for each taxable supply by the supplier to the recipient; and
- (b) the recipient and supplier record the agreement and the reasons for entering the agreement; and
- (c) the Commissioner does not, before the supply, invalidate the agreement because the Commissioner considers that the recipient and the supplier have failed to comply with the agreement or with **paragraph (b)**.

- (5) A registered person who provides taxable supply information under **subsection (1) or (4)** for a taxable supply must provide the taxable supply information to the other registered person on the day of the supply, except when the supplier and recipient agree to a later date for providing the taxable supply information and record the agreement. 5
- (6) If a registered person issues taxable supply information under **subsection (1), (3), or (4)** to a person who later requests a copy of the taxable supply information, the registered person must record the request and supply a copy of the taxable supply information to the person within 28 days of the request.
- (7) If a supply of goods made under the exercise of a power is treated under section 5(2) as being a taxable supply of goods made by a person, the person who exercises the power must— 10
- (a) issue taxable supply information under **subsection (1)** for the person treated as being the supplier, as if the supplier were a registered person; and 15
- (b) if the supplier is not a registered person, include the supplier’s tax file number in the information instead of a registration number.
- (8) Taxable supply information issued under **subsection (1), (3), (4), or (12)** must include— 20
- (a) the GST trade name of the supplier; and
- (b) the registration number of the supplier, if **subsection (7)** does not require otherwise; and
- (c) the date of issue of the information; and
- (d) a description of the goods or services supplied; and
- (e) the consideration for the supply, expressed as— 25
- (i) the tax charged and the consideration for the supply, excluding the tax charged; or
- (ii) if the amount of tax charged is the tax fraction of the amount of consideration, the consideration for the supply including the tax charged, together with a statement that the amount of consideration includes the tax charged. 30
- (9) A supplier is not required to provide taxable supply information under **subsection (1) or (3)** for a taxable supply if **subsection (10)** does not apply and 1 or more of— 35
- (a) the amount of consideration for the supply does not exceed an amount (the **threshold amount**), which is \$200 or a greater threshold amount that the Governor-General may, from time to time, declare by Order in Council;
- (b) the supplier is a non-resident supplier who makes a supply of distantly taxable goods to which section 8(3)(ab) applies: 40

- (c) the supplier is a non-resident supplier who makes a supply of remote services to which section 8(3)(c) applies.
- (10) An Order in Council made under **subsection (9)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (11) A supplier is required to provide taxable supply information under **subsection (1) or (3)** for a taxable supply if section 8(4F) applies to treat the supply as being made in New Zealand. 5
- (12) A non-resident supplier who makes a supply of distantly taxable goods to which section 8(3)(ab) applies or of remote services to which section 8(3)(c) applies may choose to provide taxable supply information meeting the requirements of **subsection (8)** to a recipient of the supply if— 10
- (a) the supply is not of a contract of insurance; and
- (b) the supply of goods or services was incorrectly treated— 15
- (i) under section 8(4D) or (4E) as being made in New Zealand when the supply should have been treated as being made outside New Zealand; or
- (ii) under section 11A(1)(x) as not being zero-rated when the supply should have been zero-rated; and
- (c) the value of the supply, in New Zealand currency as at the time of the supply, does not exceed \$1,000; and 20
- (d) the recipient either or both—
- (i) notifies the supplier that the recipient is a registered person:
- (ii) provides the supplier with the registration number or New Zealand business number of the recipient.
- 19L Taxable supply information: supplies by member of GST group or supplier group** 25
- (1) Taxable supply information for a member supply made by a member of a GST group under section 55, or by a member of a supplier group under **section 55B**, must include—
- (a) the GST trade name and registration number of the representative member for the GST group or the issuing member for the supplier group; and 30
- (b) the date of the taxable supply information; and
- (c) a description of the goods or services supplied; and
- (d) the consideration for the supply, expressed as— 35
- (i) the tax charged and the consideration for the supply, excluding the tax charged; or
- (ii) if the amount of tax charged is the tax fraction of the amount of consideration, the consideration for the supply including the tax

	charged, together with a statement that the amount of consideration includes the tax charged.	
(2)	Taxable supply information for a member supply made by a member of a GST group is treated as being provided by the issuing member for the GST group or by the representative member if the GST group does not have an issuing member.	5
(3)	Taxable supply information for a member supply made by a member of a supplier group is treated as being provided by the maker of the supply.	
19M	Taxable supply information: goods included in supplies of distantly taxable goods	10
(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, taxable supply information for the goods in the supply and for other goods imported with the supply that contains the particulars given by subsection (2) .	15
(2)	Taxable supply information required by subsection (1) must include—	
	(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) the consideration for the goods, which may be expressed in the currency of the consideration received by the supplier:	20
	(e) information indicating the items for which the amount of tax included is more than zero:	
	(f) information indicating the items for which the amount of tax included is zero.	25
(3)	A registered person who omits to issue taxable supply information for a supply as required by subsection (1) and is requested by the recipient of the supply to provide taxable supply information for the supply must provide the information within 10 working days after the request.	
19N	Supply correction information	30
(1)	This section applies where a registered person has previously issued taxable supply information containing an error.	
(2)	Where a registered person has provided to a person (the recipient) taxable supply information containing an error and subsections (3), (4), and (7) do not apply, the registered person must provide to the person information (the supply correction information) that includes—	35
	(a) the GST trade name and the registration number of the registered person; and	
	(b) information identifying the taxable supply information; and	

- (c) the date of the supply correction information; and
 - (d) the correction to the taxable supply information, with a correction to the amount of tax charged for the supply being expressed as—
 - (i) the amount of consideration shown in the taxable supply information for the supply, the correct amount of consideration for the supply, the difference between those 2 amounts, and the correction to the amount of tax charged resulting from the amount of that difference; or
 - (ii) if the amount of tax charged for the supply is the tax fraction of the amount of consideration, the amount of consideration shown in the taxable supply information for the supply, the correct amount of consideration for the supply, the difference between those 2 amounts, and a statement that the amount of that difference includes an amount of tax charged.
- (3) A registered person is not required to provide supply correction information under **subsection (2)** for a supply if—
- (a) the tax shown in the taxable supply information for the supply exceeds the tax charged on the supply; and
 - (b) the excess arises as a result of the recipient’s accepting a discount offered by the supplier—
 - (i) for prompt payment, and the terms of the prompt payment discount offer are clearly stated in the taxable supply information; or
 - (ii) by agreement, and the terms of the agreement are recorded by the recipient and supplier.
- (4) A registered person is not required to provide supply correction information under **subsection (2)** for a supply because part of the consideration shown in the taxable supply information for the supply has been rebated under a Pharmac agreement to Pharmac, whether Pharmac is acting on its own account or as an agent for a public authority.
- (5) A registered person who may issue taxable supply information under **section 19K(4)** for a supply of goods and services made to the registered person by a supplier may issue supply correction information under **subsection (2)** for taxable supply information issued by the registered person.
- (6) A supplier may issue supply correction information under **subsection (2)** to a recipient if—
- (a) the supply correction information relates to taxable supply information issued by the registered person for taxable supplies, or a class or classes of taxable supplies, made to the recipient, or to a class or classes of recipients that include the recipient; and
 - (b) the supplier’s records show that the information provided to the recipient, in the supply correction information and the taxable supply informa-

- tion for the supply, includes the details required under **subsection (2)** for each supply to the recipient to which the supply correction information relates.
- (7) Supply correction information for a supply may not be issued under **subsection (2)** after whichever of the following is the date that is, or is the earlier of the dates that are, applicable to the supply: 5
- (a) if the supply is not described in **paragraph (b)**, the date that is 4 years from the end of the taxable period in which the registered person provides the return for the taxable period in which the supply was made; or
 - (b) if the supply gives rise to an overpayment of tax that is described in section 45(1), (2), or (3) and the Commissioner is satisfied that the registered person took due care to avoid errors in the taxable supply information, the date that is 4 years from the end of the 4-year period referred to in the subsection that describes the overpayment: 10
 - (c) if the supply was not zero-rated, because section 11(1)(mb) was incorrectly applied to the supply, the date that is 7 years from the date of settlement of the transaction relating to the supply. 15
- (8) If a person claims to have lost supply correction information, the registered person who issued the information may provide a copy to the person.
- 19O Treatment of fractional amounts of cent in information** 20
- For taxable supply information or supply correction information that is required to show an amount of tax consisting of a number of dollars and cents together with a fraction or part of a cent, the fraction or part of the cent,—
- (a) if less than or equal to half of a cent, may be disregarded:
 - (b) if more than half of a cent, may be shown as being equal to 1 cent. 25
- 19P Commissioner may approve use of symbols, etc, on electronically transmitted information**
- (1) The Commissioner may, for the purpose of facilitating the electronic transfer of supply information and supply correction information, approve the use of symbols, abbreviations, or other notations to represent any particulars required by **section 19K, 19L, 19M, or 19N** in taxable supply information or supply correction information that is transferred electronically. 30
- (2) An approval under **subsection (1)** may do 1 or more of the following:
- (a) apply generally, or to a registered person or class of registered persons specified by the Commissioner: 35
 - (b) be limited to the cases and be subject to the conditions that the Commissioner thinks are appropriate:
 - (c) be withdrawn or varied by the Commissioner at any time on the giving of such notice as is reasonable in the circumstances.

- (3) An approval under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

20 New cross-heading above section 20 inserted 5
Before section 20, insert:

Calculation of tax payable: deductions, apportionment, other adjustments

21 Section 20 amended (Calculation of tax payable)

- (1) Replace section 20(2) with:
- (2) A registered person, when including an amount for a supply of goods or services as a deduction in a calculation of an amount of tax payable by the registered person, must— 10
- (a) for a taxable supply, meet the requirements of **section 19F**; and
- (b) for a supply, other than a taxable supply, of secondhand goods, meet the requirements of **section 19H**; and 15
- (c) for a supply that the registered person treats as being within section 5B, have a record of the supply showing that—
- (i) the supply meets the requirements for treatment under section 5B as being made by the registered person; and
- (ii) the registered person accounts for the output tax charged in respect of the supply; and 20
- (d) for a supply that the registered person treats as being made to the registered person as a nominated person under section 60B, have a record of the supply showing that—
- (i) the registered person is nominated to be the recipient of the supply by another person (the **nominator**) under a contract with the supplier to which the registered person is not a party; and 25
- (ii) the nominator and the registered person agree that the supply is to be treated as being made to the registered person and record the agreement; and 30
- (iii) the registered person pays to the supplier the full consideration for the supply.
- (2) In section 20(3)(f),—
- (a) replace “paragraph (a) of, or the proviso to, subsection (2)” with “**section 19F**”; 35
- (b) replace “a tax invoice” with “taxable supply information”.
- (3) In section 20(3), proviso,—

- (a) paragraph (a)(ii), replace “a tax invoice” with “taxable supply information”:
- (b) paragraph (b)(i), replace “a tax invoice” with “taxable supply information”.
- (4) After section 20(3C)(b), insert: 5
- (c) input tax for a supply referred to in paragraph (a) or (b), that does not meet the requirements of the paragraph because the registered person has not taken physical possession of the supply, may be deducted—
- (i) if the supplier is not associated with the registered person; and
- (ii) to an extent equal to the extent to which the supply is expected to be used for, or is available for use in, making taxable supplies. 10
- (5) Replace section 20(3EB)(b)(i) with:
- (i) the registered person:
- (6) In section 20(3J), words before the paragraphs, replace “section 11(1)(mb)” with “section 11(1)(m) or (mb)”. 15
- (7) Replace section 20(3J)(a)(iii) with:
- (iii) determine the amount that is the same proportion of the nominal GST component as the proportion of the use of the goods and services that is non-taxable use; and
- (iv) treat the amount determined under **subparagraph (iii)** as output tax, for attribution to a taxable period under subsection (4); and 20
- (8) Replace section 20(3L), (3LB), and (3LC) with:
- (3L) For the purposes of subsection (3), a registered person who is non-resident may deduct input tax as defined in section 3A(1)(a) or (c) to the extent to which the registered person uses the goods or services for, or has the goods and services available for use in, making taxable supplies, treating all the supplies made by the person as if they were made and received in New Zealand. 25
- (3LB) For the purposes of subsection (3), a registered person who is non-resident may deduct input tax as defined in section 3A(1)(b), if the deduction is not denied by **subsection (3LC)**. 30
- (3LC) A registered person who is non-resident may not deduct input tax as defined in section 3A(1)(b) if the imported goods are—
- (a) supplied to a person (the **recipient**) who—
- (i) is not a registered person; or
- (ii) is a registered person and the supply is not for use in a taxable activity of the recipient; and 35
- (b) outside New Zealand at the time of supply.
- (9) In section 20(4C), replace “a tax invoice” with “taxable supply information”.

- (10) **Subsections (1), (2), (3), and (9)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 22 Section 20H amended (Goods and services tax incurred in making financial services for raising funds)**
- (1) Replace section 20H(1)(d) with: 5
- (d) the funding support services are—
- (i) the issue or allotment of an interest or right (a **funding security**) that is a debt security, participatory security, equity security, or a cryptoasset with similar features and function:
- (ii) the renewal of a funding security: 10
- (iii) the payment of an amount of interest, principal, or dividend for a funding security:
- (iv) the provision or variation of a guarantee of the performance of obligations in the issue, allotment, or renewal of a funding security; and 15
- (2) **Subsection (1)** applies for taxable periods starting on or after 1 April 2017.
- 23 Section 21 amended (Adjustments for apportioned supplies)**
- (1) After section 21(2)(ab), insert:
- (ac) the person has made an adjustment under section 21FB for a change in use of the goods or services and has not changed the use of the goods or services since that change: 20
- (2) Replace section 21(4B)(b)(i) with:
- (i) the registered person:
- 24 Section 21B amended (Adjustments when person or partnership becomes registered after acquiring goods and services)** 25
- (1) Replace section 21B(1)(b) with:
- (b) at the time of registration or at a later time, the person or a partnership of which the person is a member (the **registered user**) uses the goods for making taxable supplies.
- (2) In section 21B(2), replace the words before the paragraphs with “The registered person may make an adjustment under section 20G, 21, or 21A if the registered user meets the requirements of **subsection (3)** for the supply, treating, as the first adjustment period, the period (the **initial period**) that—”. 30
- (3) Replace section 21B(3) with:
- (3) A registered user meets the requirements of this subsection for a supply by— 35
- (a) having a record of the details of the supply required by either of—
- (i) **section 19F** for a taxable supply:

- (ii) **section 19H** for a supply that is not a taxable supply; and
- (b) using a method that provides a fair and reasonable result in identifying the percentage actual use of the goods or services in the initial period referred to in **subsection (2)**.
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 5
- 25 Section 21F amended (Treatment on disposal)**
- (1) Repeal section 21F(2) and (3).
- (2) In section 21F(4), replace the words before the formula with “Subject to **subsection (6)**, the person must make a final adjustment of an amount calculated using the formula—”. 10
- (3) Replace section 21F(6) with:
- (6) If the disposal is of land, and would be a taxable supply in the course or furtherance of a taxable activity of supplying land even in the absence of any other use of the land by the person in a taxable activity, the final adjustment given by subsection (4) must not exceed— 15
- (a) for a disposal of land that the person acquired as a zero-rated supply, the amount of output tax that is accounted for by the person under section 20(3J)(a)(iii), taking into account any later adjustments made under the apportionment rules in sections 21 to 21H; or 20
- (b) for a disposal to which **paragraph (a)** does not apply, the amount that, when added to any deduction already claimed, produces a total amount equal to the amount of the full input tax deduction on acquisition referred to in section 21D(2).
- (4) In section 21F(7), replace “formulas in subsections (2) and (4)” with “formula in subsection (4)”. 25
- 26 Section 24 repealed (Tax invoices)**
- (1) Repeal section 24.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 30
- 27 Section 24BA repealed (Shared tax invoices)**
- (1) Repeal section 24BA.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 28 Section 24BAB repealed (Receipts for supplies)** 35
- (1) Repeal section 24BAB.

- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 29 Section 24BAC repealed (Information for importation of goods including distantly taxable goods)**
- (1) Repeal section 24BAC. 5
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 30 Section 24B repealed (Records to be kept by recipient of imported goods and services)**
- (1) Repeal section 24B. 10
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 31 Section 25 amended (Credit and debit notices)**
- (1) Replace the heading for section 25 with “**Adjustments for errors**”.
- (2) Replace section 25(1) with: 15
- (1) This section applies where a registered person makes a return accounting for an incorrect amount of output tax payable for a taxable period.
- (3) Repeal section 25(1B).
- (4) In section 25(2), replace “output tax as specified in subsection (1)(e)” with “output tax for a taxable period”. 20
- (5) Repeal section 25(3), (3A), (3B), and (3C).
- (6) Replace section 25(4) and (5) with:
- (4) If a registered person makes a deduction in a taxable period of input tax relating to a supply for which the person has taxable supply information and is then issued with supply correction information showing, or otherwise knows, that the taxable supply information includes an amount of output tax on the supply exceeding the correct amount, the amount of the excess tax is— 25
- (a) treated as being output tax charged on a taxable supply made by the registered person, to the extent that the input tax deducted relating to the supply exceeds the output tax properly charged on the supply; and 30
- (b) attributed to the taxable period in which the supply correction information is issued or the registered person becomes aware of the excess.
- (5) If a registered person makes a deduction in a taxable period of input tax relating to a supply for which the person has taxable supply information and is then issued with supply correction information showing that the correct amount of output tax on the supply exceeds the amount included in the taxable supply information, the amount of the excess tax is treated as being input tax that is a deduction under section 20(3) in the taxable period in which the supply correc- 35

- tion information is issued, to the extent that the output tax properly charged on the supply exceeds the input tax deducted relating to the supply.
- (7) Repeal section 25(6) and (7).
- (8) **Subsections (1), (2), (3), (4), (5), (6), and (7)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 5
- 32 Section 25AA amended (Consequences of change in contract for imported goods and services)**
- (1) In section 25AA(1)(a)(v), replace “a tax invoice” with “taxable supply information”.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 10
- 33 Section 25AB amended (Consequences of change in contract for secondhand goods)**
- (1) In section 25AB(1)(a), replace “section 25(1)(a) to (c)” with “section 25AA(1)(a)”. 15
- (2) In section 25AB(1)(d), replace “a tax invoice or credit note” with “taxable supply information or supply correction information”.
- (3) In section 25AB(2), replace “the event referred to subsection (1)(a) occurs” with “the error in the amount of input tax is found”.
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 20
- 34 Section 25A repealed (Commissioner may approve use of symbols, etc, on electronically transmitted invoices, receipts, and credit and debit notes)**
- (1) Repeal section 25A.
- (2) **Subsection (1)** applies for taxable periods beginning on or after the day on which this Act receives the Royal assent. 25
- 35 Section 43 amended (Deduction of tax from payment due to defaulters)**
- (1) After section 43(2), insert:
- (2AA) If a person (the **liable person**) is liable to meet the obligations under this Act of a registered person (the **defaulting person**) that has made default in a payment to the Commissioner, the Commissioner may issue a notice under subsection (2) as if the liable person were a registered person that had committed the default of the defaulting person. 30
- (2) In section 43(2A), replace “subsection (1)” with “subsection (2)”.
- (3) In section 43(4), replace “revocation by the registered person” with “revocation by the registered person or liable person”. 35

- (4) In section 43(5), replace “to the registered person” with “to the registered person or liable person”.
- (5) In section 43(5B), replace “the registered person” with “the registered person or liable person” in each place.
- (6) In section 43(6),— 5
- (a) replace “any registered person” with “a registered person or liable person”;
- (b) replace “that registered person” with “the registered person or liable person”.
- (7) In section 43(7), replace “the registered person” with “the person”. 10
- (8) In section 43(9), replace “the registered person” with “the registered person or liable person”.
- 36 Section 53 amended (Registered person to notify change of status)**
- (1) In section 53(1)(d), replace “group” with “GST group” in each place.
- (2) In section 53(2), words before the paragraphs, replace “tax invoices and credit and debit notes” with “taxable supply information and supply correction information”. 15
- (3) In section 53(2)(b), after “person”, insert “as the person’s GST trade name”.
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 20
- 37 Section 55 amended (Group of companies)**
- (1) Replace the heading for section 55 with “**GST groups**”.
- (2) Before section 55(1), insert:
- (1A) This section applies to companies meeting the eligibility requirements of subsection (1) or (8) and choosing to form a GST group. 25
- (1AB) The rules in the section are intended to ensure that, with exceptions, the Act treats the members of a GST group as if the members were—
- (a) as the GST group, a single company—
- (i) operating separately each activity that each member would operate in the absence of this section; and 30
- (ii) making or receiving each supply that each member, as part of an activity, would be treated in the absence of this section as making to, or receiving from, a person who is not a member; and
- (iii) acting through the representative member in making elections, giving information other than taxable supply information, keeping records, and making payments required by the Act; and 35

- (iv) acting through the issuing member, or the representative member if the GST group does not have an issuing member, in giving taxable supply information; and
- (b) as the GST group, sharing the responsibilities and liabilities under the Act of the single company; and 5
- (c) as individual members, sharing with the representative member some of the individual responsibilities and obligations under the Act arising for the representative member from each activity and supply that would be an activity and supply of the member in the absence of this section.
- (1AC) **Subsections (1AD) to (1AI)** apply to the members of a GST group— 10
- (a) except in relation to a supply of services that is treated by section 8(4B) as being made in New Zealand; and
- (b) unless a provision of the Act expressly provides otherwise.
- (1AD) An activity that would in the absence of this section be an activity of a member of the GST group is carried on by— 15
- (a) the representative member, as an activity of a registered person separate from other activities of the representative member; and
- (b) no member of the GST group other than the representative member.
- (1AE) A supply that would in the absence of this section be a supply made by a member of the GST group to a person— 20
- (a) is a supply made as a registered person by the representative member to the person, if the person is not a member of the GST group; or
- (b) is disregarded for the purposes of calculating the tax payable by the GST group for a taxable period, if the person is a member of the GST group, except if another provision requires otherwise. 25
- (1AF) A supply of goods and services that would in the absence of this section be made by a member of the GST group, and not be a taxable supply, is a supply by the representative member.
- (1AG) A supply of goods and services that would in the absence of this section be made to a member of the GST group, other than a supply that would in the absence of this section be a taxable supply by another member, is a supply to the representative member as a registered person. 30
- (1AH) If goods and services are acquired, or produced, or applied, by a member of a GST group (the **new member**) at a time before becoming a member of the GST group and there is a difference, for an adjustment period, between the percentage intended use by the new member of the goods and services for making taxable supplies and the percentage actual use by the representative member of the goods and services for making taxable supplies, the representative member, for the purposes of section 21(1), has— 35

- (a) acquired, or produced, or applied, the goods and services at the time with a percentage intended use for making taxable supplies equal to the percentage intended use of the new member; and
 - (b) made claims for input tax and adjustments of output tax, relating to the goods and services, when the same claims were made by the new member before becoming a member of the GST group. 5
- (1AI) Information provided to a member of the GST group under section 78F is provided to the representative member and information provided by a member of the GST group under section 78F is provided by the representative member.
- (1AJ) **Subsections (1AK) to (8)** apply to the members of a GST group unless a provision of the Act expressly provides otherwise or the context requires another result. 10
- (1AK) When part of the GST group, the members of the GST group have the same taxable period under sections 15 to 15E and the same accounting basis under section 19 or 19A. 15
- (1AL) The representative member is—
 - (a) responsible for making elections of the GST group under the Act and making the returns, giving the information, subject to **subsection (1AM)**, and keeping the records, required by the Act for the GST group; and 20
 - (b) treated as paying tax paid by a member of the GST group; and
 - (c) responsible for paying the tax payable by the members of the GST group, subject to **subsection (1AO)(a)**.
- (1AM) A GST group may choose that the taxable supply information, for a taxable supply that would in the absence of this section be made by a member (the **active member**), be issued— 25
 - (a) in the name of the active member, by the active member; or
 - (b) in the name of the representative member, by—
 - (i) the representative member; or
 - (ii) a member (the **issuing member**) whose identity and role are notified to the Commissioner by the representative member. 30
- (1AN) The representative member, and an issuing member or active member, of a GST group must meet the requirements of **sections 19J and 19L** for taxable supply information.
- (1AO) A person who is, or has been, a member of the GST group has the following responsibilities and liabilities: 35
 - (a) joint and several liability with the other members of the GST group for all tax payable by the representative member for each taxable period, or part of a taxable period, in which the member is part of the GST group; and 40

- (b) the responsibilities and liabilities of a member of the GST group under the provisions of—
- (i) sections **19K to 19N**; and
 - (ii) section 75, for the activities of the member while the member is part of the GST group; and
 - (iii) Part 8 (Registration), if the person is a registered person when the person is a member of the GST group.
- (1AP) If a member (the **leaving member**) leaves a GST group, the leaving member or the representative member may apply to the Commissioner for the leaving member to be relieved from liability for tax payable by the GST group for all or part of a taxable period if—
- (a) the assessment for the liability of the GST group is a reassessment made after the later of—
 - (i) the date on which the leaving member is treated as leaving the GST group;
 - (ii) the date of the event that causes the leaving member to be treated as leaving the GST group; and
 - (b) the amount assessed is more than an earlier assessment of the GST group for the taxable period or part of the taxable period; and
 - (c) the Commissioner considers that the removal of the liability will not significantly prejudice the recovery, or likely recovery, of the amount of tax assessed for the taxable period or part of the taxable period; and
 - (d) the Commissioner notifies the leaving member and the representative member that the requirements of **paragraph (c)** are met.
- (1AQ) The responsibilities under **subsection (1AO)** of a person who is, or has been a member of a GST group—
- (a) are unaffected by the person’s ceasing to be part of the GST group or by a representative member’s ceasing to exist; and
 - (b) may be relieved by the Commissioner under **subsection (1AP)**.
- (3) In section 55(1), words before the paragraphs, replace “group of companies” with “GST group”.
- (4) Replace section 55(1)(a) with:
- (a) at a time and under section IC 3 of the Income Tax Act 2007, the companies are a group of persons (the **eligibility group**) that—
 - (i) is a group of companies; or
 - (ii) is part of a group of companies; or
 - (iii) would be a group of companies but for 1 or more members being a multi-rate PIE or a look-through company; or

- (iv) would be a group of companies but for 1 or more members being a listed PIE; and
- (5) In section 55(1)(b),—
- (a) words before the subparagraphs, replace “companies,—” with “companies meet either or both of the following requirements:” 5
- (b) replace subparagraph (ii) with:
- (ii) as the eligibility group and in a 12-month period that includes the time, make supplies to persons outside the eligibility group that are taxable supplies, or would be taxable supplies if made by a registered person, and that have a total value of at least 75% of the total value of the taxable supplies and other supplies made in that period by persons in the eligibility group to persons outside the eligibility group. 10
- (6) In section 55(1B),—
- (a) replace “group of companies” with “GST group” in each place: 15
- (b) replace “resulting group” with “resulting GST group”.
- (7) In section 55(2), replace “group of companies” with “GST group” in each place.
- (8) In section 55(3), words before the paragraphs, delete “by 2 or more companies”. 20
- (9) In section 55(4),—
- (a) replace “group of companies” with “GST group” in each place:
- (b) words after paragraph (d), after “by the Commissioner” insert “or from the date required by **subsection (4AA)**”.
- (10) After section 55(4), insert: 25
- (4AA) If the representative member applies under subsection (4) for a company to be a member of the GST group and the company is incorporated less than 12 months before the application and is eligible to be a member when it is incorporated, the Commissioner must grant the application from whichever date the representative member chooses of— 30
- (a) the date of the company’s incorporation:
- (b) the start of the taxable period following the date of the company’s incorporation.
- (11) In section 55(4A), replace “group of companies” with “GST group”.
- (12) In section 55(5), replace “group of companies” with “GST group” in each place. 35
- (13) In section 55(6),—
- (a) replace “any group of companies” with “a GST group”:

- (b) replace “shall be deemed to be” with “is”:
- (c) replace “that group of companies” with “the GST group”.
- (14) Repeal section 55(7) and (7B).
- (15) In section 55(8), replace the words after paragraph (c) with “the Commissioner may accept that the registered persons are a GST group, and subsections (2) to (6) apply to the group of registered persons as a GST group and to each of the registered persons as a member of the GST group.” 5
- (16) **Subsections (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), and (15)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 10

38 New section 55B inserted (Supplier group and issuing member)

- (1) After section 55, insert:

55B Supplier group and issuing member

- (1) Members of a group of 2 or more registered persons (the **supplier group**), each of which is not a member of a GST group and meets the requirements of **subsection (2)**, may enter an agreement under which a single member (the **issuing member**) issues under **section 19J** the taxable supply information for each supply of goods and services made, other than under section 5(2), by a member of the supplier group (the **supplying member**). 15
- (2) The requirements of this subsection are met if— 20
 - (a) the members of the supplier group agree that,—
 - (i) the issuing member must issue taxable supply information for each supply by a supplying member; and
 - (ii) each member of the supplier group other than the issuing member must not issue taxable supply information for a supply by the member; and 25
 - (iii) each supplying member is jointly and severally liable for performing the obligations under this Act of the issuing member for each supply by the member; and
 - (b) the agreement includes the GST trade name, address, and registration number of each member of the supplier group; and 30
 - (c) each member of the supplier group records the agreement and the circumstances taken into account by the member in entering the agreement; and
 - (d) The Commissioner has not invalidated the agreement because the Commissioner considers that the members of the supplier group have failed to satisfy the requirements of the agreement and this section. 35

- (3) The issuing member of a supplier group is responsible as an agent of each supplying member of the supplier group for the obligations under this Act of a supplying member making a supply.
- (4) When the members of a supplier group agree to have, or to change, the issuing member for the supplier group, the issuing member must notify the Commissioner of the member’s role and provide the Commissioner with an undertaking to meet the obligations of an issuing member for the supplier group. 5
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 39 Section 60 amended (Agents and auctioneers) 10**
- (1) In section 60(1),—
- (a) replace “a tax invoice or a credit note or a debit note” with “taxable supply information or supply correction information” in each place:
- (b) replace “that tax invoice or credit note or debit note” with “the taxable supply information or supply correction information”. 15
- (2) In section 60(2),—
- (a) replace “with a tax invoice” with “with taxable supply information”:
- (b) replace “a tax invoice or a credit note or a debit note” with “taxable supply information or supply correction information”.
- (3) In section 60(3), replace “a tax invoice or a credit note or a debit note” with “taxable supply information or supply correction information”. 20
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 40 Section 75 amended (Keeping of records)**
- (1) In section 75(1), replace “tax invoices, credit notes, debit notes” with “taxable supply information, supply correction information”. 25
- (2) In section 75(2)(a), replace “tax invoices, credit notes, and debit notes” with “taxable supply information and supply correction information”.
- (3) **Subsections (1) and (2)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 30
- 41 Section 75B amended (General rules for giving information or communicating matters)**
- (1) In section 75B(3), replace “post, fax, or electronic means” with “post, or electronic means”.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 35

- 42 Section 78AA amended (Exceptions to effect of increase of tax)**
- (1) In section 78AA(11)(b), replace “a tax invoice” with “taxable supply information”.
- (2) In section 78AA(12),—
- (a) replace “a tax invoice” with “taxable supply information”: 5
 - (b) paragraph (a), replace “tax invoice” with “taxable supply information”:
 - (c) paragraph (b), replace “a credit note or debit note” with “supply correction information”.
- (3) Replace section 78AA(13) with:
- (13) If, in the absence of this subsection, the registered person would be required to provide supply correction information— 10
- (a) for an excess of tax charged in the taxable supply information for a supply,—
 - (i) the registered person may provide replacement taxable supply information for the supply; and 15
 - (ii) goods and services tax is charged on the supply under the replacement taxable supply information at the original rate:
 - (b) for a deficiency of tax charged in the taxable supply information for a supply, the registered person may provide replacement taxable supply information for the supply. 20
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 43 Section 78B amended (Adjustments to tax payable for persons furnishing returns following change in rate of tax)**
- (1) Replace section 78B(2A)(f)(i) to (iii) with: 25
- (i) taxable supply information or supply correction information has been provided in accordance with **sections 19K to 19N** and is held by the registered person at the time the prescribed form is furnished in accordance with subsection (2); or
 - (ii) **section 19K(9)** provides that taxable supply information is not required to be issued or **section 19N** provides that supply correction information is not required to be issued; or 30
 - (iii) the registered person meets record-keeping requirements of **section 19H**, where the supply is a supply of secondhand goods to which that section relates. 35
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

- 44 Section 78BA amended (Adjustments to tax payable in relation to credit and debit notes following change in rate of tax)**
- (1) In the heading to section 78BA, replace “**credit and debit notes**” with “**supply correction information**”.
- (2) In section 78BA(1), replace— 5
- (a) “a debit note or credit note” with “supply correction information”;
- (b) “that debit note or credit note” with “the supply correction information”;
- (c) “the debit note or credit note” with “the supply correction information”.
- (3) In section 78BA(2),—
- (a) paragraph (c)(i), replace “a debit note or credit note” with “supply correction information”; 10
- (b) paragraph (c)(ii), replace “tax invoice” with “taxable supply information”;
- (c) words after paragraph (c)(ii), replace “that debit note or credit note” with “the supply correction information”; 15
- (d) words after paragraph (c), replace “the debit note or credit note or other notice” with “the supply correction information or other information”.
- (4) **Subsections (1) and (2)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 45 Section 78G repealed (Railways vesting: zero-rating and timing of tax calculations and documents)** 20
- (1) Repeal section 78G.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

Part 3

25

Amendments to Income Tax Act 2007

- 46 Amendments to Income Tax Act 2007**
- This Part amends the Income Tax Act 2007.
- 47 Section BC 5 amended (Taxable income)**
- In section BC 5, list of defined terms, delete “tax loss”. 30
- 48 Section CB 6A amended (Disposal within 10 years: bright-line test for residential land)**
- (1) In section CB 6A(6), replace “subsection (7).” with “subsection (7). However, there is no reduction using the formula in subsection (7) if the exception in sec-

- tion CB 16A(3) disappplies subsection (1) of that section for the bright-line period.”
- (2) **Subsection (1)** applies to a person’s disposal of residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, **subsection (1)** does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. 5
- 49 Section CB 16A amended (Main home exclusion for disposal within 10 years)** 10
- (1) In section CB 16A(6)(b), replace “there is a continuous period” with “there is one or more continuous periods”.
- (2) Replace section CB 16A(6)(c) and (d) with:
- (c) the beginning and the end of the continuous period adjoins either:
- (i) a period within the bright-line period that meets the criteria; or 15
- (ii) the first or last day of the bright-line period; and
- (d) each continuous period is—
- (i) 365 days or less;
- (ii) in the case of the period during which the person is making reasonable efforts to construct a dwelling intended for use as their main home or as the main home of a person described in section CB 16A(2), that period; and 20
- (3) In section CB 16A, list of defined terms, insert “group of persons”.
- (4) **Subsections (1), (2), and (3)** apply to a person’s disposal of residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, **subsections (1), (2), and (3)** do not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. 25
- 50 Section CD 5 amended (What is a transfer of company value?)** 30
- In section CD 5(2)(a), replace “forgiven” with “remitted”.
- 51 Section CD 39 amended (Calculation of amount of dividend when property made available)**
- (1) Replace section CD 39(8), other than the heading, with:
- (8) For the purposes of subsection (5), if neither subsection (6) nor (7) applies, the benchmark rate of interest is— 35
- (a) a market rate determined at the end of the quarter for a loan made on the same terms between persons at arm’s length; or

<p>(b) if the loan is cross-border related borrowing under section GC 6(3B) (Purpose and application of rules and nature of arrangements), the rate determined at the end of the quarter for a loan made on the same terms, including credit rating, as used for the adjustment to the interest made in accordance with sections GC 6 to GC 14 (Transfer pricing arrangements).</p>	5
<p>(2) Subsection (1) applies for income years starting on or after 1 April 2022.</p>	
<p>52 Section CD 43 amended (Available subscribed capital (ASC) amount)</p>	
<p>(1) In section CD 43(6B)(a), replace “forgiven” with “remitted”.</p>	
<p>(2) Repeal section CD 43(6B)(b).</p>	10
<p>(3) In the heading to section CD 43(6D), replace “<i>forgiven</i>” with “<i>remitted</i>”.</p>	
<p>53 Section CD 44 amended (Available capital distribution amount)</p>	
<p>(1) After section CD 44(7), insert:</p>	
<p style="padding-left: 2em;"><i>Disposal of shares received in a share-for-share exchange</i></p>	
<p>(7B) A company that sells or transfers to a person that is not associated, for consideration, shares that are capital property, and the shares were received by the company in a share-for-share exchange to which sections CD 43(9) and (10) (Available subscribed capital (ASC) amount) apply, has a capital gain amount, in addition to any other capital gain amount, equal to the subscriptions amount not included, because of the application of section CD 43(10), for the relevant issue of the company’s shares in the share-for-share exchange.</p>	15 20
<p>(2) In the heading to section CD 44(8B), replace “<i>forgiven</i>” with “<i>remitted</i>”.</p>	
<p>(3) In section CD 44(8B), replace “forgiven” with “remitted”.</p>	
<p>54 Section CW 10 amended (Dividend within New Zealand wholly-owned group)</p>	
<p>(1) In section CW 10(1)(e), replace “subsections (3) to (6)” with “subsections (5) and (6)”.</p>	
<p>(2) Repeal section CW 10(3).</p>	
<p>(3) Subsections (1) and (2) apply for the 2022–23 and later income years.</p>	25
<p>55 Section CW 39 amended (Local authorities)</p>	
<p>(1) Replace section CW 39(4), other than the heading, with:</p>	30
<p>(4) Subsection (2) does not apply to an amount of income that—</p>	
<p style="padding-left: 2em;">(a) is derived by a local authority from—</p>	
<p style="padding-left: 4em;">(i) a council-controlled organisation linked by ownership or control to the local authority, other than a council-controlled organisation operating a hospital as a charitable activity on behalf of the local authority; or</p>	35

- (ii) an organisation linked by ownership or control to the local authority that is a port company, a subsidiary of a port company, or an energy company and that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002; and 5
- (b) is neither rates nor a dividend that is exempt income of the local authority under section CW 10.
- (2) **Subsection (1)** applies for the 2022–23 and later income years.
- 56 Section CX 47 amended (Government grants to businesses)**
- (1) After section CX 47(4), insert: 10
- Another exclusion*
- (5) This section does not apply to an RDTI transition support payment.
- (2) **Subsection (1)** applies for the 2019–20 and later income years.
- 57 Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)** 15
- (1) In section CZ 40(5), words before the paragraphs, replace “group of persons” with “**group of persons**”.
- (2) In section CZ 40, list of defined terms,—
- (a) insert “group of persons”;
- (b) delete “settlement”. 20
- (3) **Subsections (1) and (2)** apply to a person’s disposal of residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, **subsections (1) and (2)** do not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. 25
- 58 Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)**
- (1) After section DB 8(2), insert: 30
- Exclusion: borrowing by local authorities*
- (2B) Subsection (1) does not apply to interest incurred by a local authority on money borrowed to acquire shares in a company other than a council-controlled trading organisation as defined in section 6 of the Local Government Act 2002.
- (2) In section DB 8, list of defined terms, insert “local authority”. 35
- (3) **Subsection (1)** applies for the 2022–23 and later income years.

59	New section DB 9B inserted (Interest incurred on money borrowed by local authorities and lent to council-controlled organisations)	
(1)	After section DB 9, insert:	
	DB 9B Interest incurred on money borrowed by local authorities and lent to council-controlled organisations	5
	<i>No deduction</i>	
(1)	A local authority is denied a deduction for interest incurred on borrowed money that it lends to a council-controlled organisation other than a council-controlled trading organisation as defined in section 6 of the Local Government Act 2002.	10
	<i>Relationship with section DB 6</i>	
(2)	This section overrides section DB 6.	
	<i>Link with subpart DA</i>	
(3)	This section overrides the general permission.	
	Defined in this Act: council-controlled organisation, deduction, general permission, interest, local authority	15
(2)	Subsection (1) applies for the 2022–23 and later income years.	
60	Section DB 11 amended (Negative base price adjustment)	
(1)	After section DB 11(1), insert:	
	<i>Modification: local authorities</i>	20
(1BA)	For a local authority, subsection (1) applies only in relation to a financial arrangement with a council-controlled trading organisation as defined in section 6 of the Local Government Act 2002.	
(2)	In section DB 11, list of defined terms, insert “local authority”.	
(3)	Subsection (1) applies for the 2022–23 and later income years.	25
61	Section DB 20B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)	
	In section DB 20B, list of defined terms, delete “depreciable intangible property”.	
62	Cross-heading above section DB 41 replaced	30
	Replace the cross-heading above section DB 41 with:	
	<i>Corporate gifting</i>	
63	Section DB 41 amended (Charitable or other public benefit gifts by company)	
(1)	After section DB 41(3), insert:	35

<i>Exclusion</i>	
(3B)	This section does not apply to a local authority.
(2)	In section DB 41, list of defined terms, insert “local authority”.
(3)	Subsection (1) applies for the 2022–23 and later income years.
64	Section DF 1 amended (Government grants to businesses) 5
(1)	Replace section DF 1(1BA), other than the heading, with:
(1BA)	This section does not apply to the extent to which a payment described in sub-section (1) is—
(a)	the payment of an R&D loss tax credit and the person’s expenditure is attributable to that payment: 10
(b)	an RDTI transition support payment and the person’s expenditure is attributable to that payment.
(2)	Subsection (1) applies for the 2019–20 and later income years.
65	Section DV 18B amended (Cost base for shares when debt forgiven within economic group) 15
	In the heading to section DV 18B, replace “forgiven” with “remitted”.
66	Section EE 6 amended (What is depreciable property?)
	In section EE 6, list of defined terms, replace “research and development activities” with “research and development activity”.
67	Section EE 40 amended (Transfer of depreciable property on or after 24 September 1997) 20
(1)	In section EE 40(2), replace “not applied.” with “not applied, or if the rate for the item was not 0% in the case of a building with a rate of 0%.”
(2)	In section EE 40(3), replace “acquired it.” with “acquired it, or would have been allowed a deduction if the rate for the item was not 0% in the case of a building with a rate of 0%.” 25
(3)	Subsections (1) and (2) apply for the 2011–12 and later income years.
68	Section EE 44 amended (Application of sections EE 48 to EE 51)
	In section EE 44(2)(d), after “insurance”, insert “or compensation”.
69	Section EJ 10B amended (IFRS leases) 30
(1)	In section EJ 10B(6),—
(a)	replace “a deduction” with “income”:
(b)	replace “has income” with “is allowed a deduction”.
(2)	Subsection (1) applies for income years starting on or after 1 January 2019.

- 70 Section EL 3 amended (Definitions for this subpart)**
- (1) In section EL 3, definition of **residential income**, after paragraph (a), insert:
- (ab) income which is the amount that the person derives under section CC 3 (Financial arrangements) for the income year in relation to a loan, denominated in a foreign currency, to the extent to which that loan relates to their residential portfolio: 5
- (2) **Subsection (1)** applies for income years starting on or after the day on which this Act receives the Royal assent.
- 71 Section EM 1 amended (Australian non-attributing shares and attributing FDR method interests)** 10
- (1) Replace section EM 1(2)(c) and (d) with:
- (c) **section EM 4** provides rules for elections to choose that eligible hedges are subject to this subpart by applying either the hedge-by-hedge method or the portfolio method: 15
- (d) **section EM 5** provides the hedge-by-hedge method to calculate fair dividend rate hedge portions for a person’s eligible hedges: 15
- (db) **section EM 5B** provides the portfolio method to calculate fair dividend rate hedge portions for a person’s eligible hedges:
- (2) In section EM 1(3), replace “fair dividend rate hedge portions.” with “fair dividend rate hedge portions. However, subpart EW determines a person’s income and expenditure for the portion of a hedge that is not a fair dividend rate hedge portion.” 20
- 72 Section EM 3 amended (What hedges does this subpart apply to?)**
- (1) After the heading to section EM 3, insert “*General rule*” as a subsection heading. 25
- (2) In section EM 3(d), replace “into; and” with “into or is acquired at its fair value; and”.
- (3) In section EM 3, insert as subsection (2):
- Exception*
- (2) Despite subsection (1), this subpart applies and a person’s hedge is an **eligible hedge**, if section EM 1 applies to the hedge, the person has not chosen to use **section EM 5(4) and (5)** for the hedge, and the hedge— 30
- (a) is a contract to conditionally or unconditionally acquire or dispose of any currency in return for any other currency, or is a swap with legs denominated in any currency; and 35
- (b) meets the requirements of subsection (1)(b) to (e); and
- (c) is entered in only to rebalance currency exposures for the person’s other eligible hedges.

73 Section EM 4 replaced (Irrevocable elections)

Replace section EM 4 with:

EM 4 Elections*Elections*

- (1) This subpart applies to a person's eligible hedges, to the extent to which the hedges have fair dividend rate hedge portions as a result of an election under this section. The portion of a person's eligible hedge that is not a fair dividend rate hedge portion does not give rise to income or expenditure under this subpart, despite any election under this section for the eligible hedge. To the extent to which this subpart does apply to calculate income and expenditure (*see*: section EM 6), the fair dividend rate hedge portion does not give rise income or expenditure under any other subpart of this Act. 5 10

Hedge-by-hedge: specific

- (2) A person may choose to use the hedge-by-hedge method under **section EM 5** for an eligible hedge, if the election under this subsection is made before the hedge and any hedge of the hedge is first entered into or acquired by the person. 15

Hedge-by-hedge: general

- (3) A person may choose to use the hedge-by-hedge method under **section EM 5** for all eligible hedges if the election under this subsection is made before the hedge and any hedge of the hedge is first entered into or acquired by the person. The choice applies for all eligible hedges post-election. 20

Specific: effect

- (4) An election under **subsection (2)** is irrevocable for the life of the relevant hedge, unless the person may choose and does choose, under **subsection (6)**, to use the portfolio method. 25

General: effect

- (5) An election under **subsection (3)** may be changed before the relevant hedge and any hedge of the hedge is first entered into or acquired by the person, but is irrevocable for the life of the relevant hedge, unless the person may choose and does choose, under **subsection (6)**, to use the portfolio method. 30

Portfolio

- (6) A person that uses a daily unit valuation period under section EX 53 (Fair dividend rate periodic method) may choose the portfolio method under **section EM 5B**. 35

	<i>Portfolio: effect</i>	
(7)	An election under subsection (6) is irrevocable for 4 years and applies for all eligible hedges post-election, but does not have to be made before a relevant hedge is entered into. Defined in this Act: eligible hedge, fair dividend rate hedge portion, income	5
74	Section EM 5 amended (Fair dividend rate hedge portions)	
(1)	In the heading to section EM 5, replace “ portions ” with “ portions: hedge-by-hedge method ”.	
(2)	Replace section EM 5(1) with:	
	<i>Fair dividend rate hedge portions</i>	10
(1)	This section calculates the maximum fair dividend rate hedge portions for a person’s eligible hedges on a hedge-by-hedge basis under an election provided by section EM 4 , or the minimum fair dividend rate hedge portions for hedges that are a hedge of a hedge.	
(3)	Repeal section EM 5(2).	15
(4)	Replace section EM 5(3), other than the heading, with:	
(3)	A person may choose to use either subsections (4) and (5) , or subsections (9) and (10) , to calculate the maximum or minimum, as the case may be, fair dividend rate hedge portions for all of the person’s eligible hedges when the relevant hedge is first entered into or acquired. They may not choose to use, for example, subsections (4) and (5) for some hedges and subsections (9) and (10) for other hedges.	20
(5)	In section EM 5(4), replace “maximum” with “maximum or minimum, as the case may be,”.	
(6)	In section EM 5(4), replace “first entered into” with “first entered into or acquired”.	25
(7)	Replace section EM 5(5)(a) with:	
(a)	eligible currency assets is the total market value of,—	
(i)	a person’s assets described in section EM 1(1)(a) and (b) that are denominated in the same currency (the calculation currency) that the calculation hedge hedges; and	30
(ii)	if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE, described in section EM 1(1)(a) and (b), and denominated in the calculation currency:	35
(8)	Repeal section EM 5(6) and (7).	
(9)	Replace section EM 5(8), other than the heading, with:	

- (8) If the amount calculated under subsection (4) is less than zero, then the maximum or minimum, as the case may be, fair dividend rate hedge portion for the relevant calculation hedge is zero.
- (10) Replace section EM 5(9) and (10) with:
- Second formula* 5
- (9) The maximum or minimum, as the case may be, fair dividend rate hedge portion for a person's eligible hedge (the **calculation hedge**) is the amount, expressed as a percentage, calculated using the following formula when the hedge is first entered into or acquired:
- $$\text{FDR gross amount} \times \text{apportioned current hedge amount} \div \text{calculation hedge amount.}$$
 10
- Definition of items in second formula*
- (10) In the formula in **subsection (9)**, all items are expressed in New Zealand currency, and—
- (a) **FDR gross amount** means the amount given by **subsection (10B)**: 15
- (b) **apportioned current hedge amount** means the amount given by **subsection (10D)**:
- (c) **calculation hedge amount** is the amount of foreign currency that is hedged by the calculation hedge.
- FDR gross amount* 20
- (10B) For the purposes of **subsection (10)**, the **FDR gross amount** is either—
- (a) zero if the formula in this subsection does not calculate, when the hedge is first entered into or acquired, an amount (for example: the denominator is zero); or
- (b) the lesser of 1 and the amount calculated using the following formula 25
- $$(1.05 \times \text{eligible currency assets} - \text{FDR hedges amount}) \div \text{apportioned current hedge amount.}$$
- Definition of items in FDR gross formula*
- (10C) In the formula in **subsection (10B)(b)**, all items are expressed in New Zealand currency, and— 30
- (a) **eligible currency assets** is the total market value of a person's assets described in section EM 1(1)(a) and (b) and, if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b): 35
- (b) **FDR hedges amount** is the amount of foreign currency hedged by a person's fair dividend rate hedge portions, but excluding the portion for the calculation hedge:

(c) **apportioned current hedge amount** means the amount given by **subsection (10D)**.

Apportioned current hedge amount

(10D) The **apportioned current hedge amount** for the purposes of **subsections (10) and (10C)** is 1 of the following amounts, expressed in New Zealand currency: 5

(a) if the calculation hedge is not a hedge of a hedge, or is a hedge of a hedge and **paragraph (b)** does not apply, the amount is the lesser of the following amounts:

(i) the amount of foreign currency hedged by the calculation hedge: 10

(ii) the amount of foreign currency that is hedged by a person's hedges including the calculation hedge *less* the amount of foreign currency that is hedged by a person's FDR hedge portions excluding the calculation hedge *less* the total market value of a person's non-eligible assets, treating a negative result as zero: 15

(b) the negative of the amount of foreign currency that is hedged by a person's FDR hedge portions excluding the calculation hedge, if—

(i) the calculation hedge is a hedge of a hedge; and

(ii) the amount of foreign currency that is hedged by a person's FDR hedge portions excluding the calculation hedge *plus* the calculation hedge *equals* less than zero. 20

(11) In section EM 5, list of defined terms, insert “non-eligible assets”.

75 New section EM 5B inserted (Fair dividend rate hedge portions: portfolio method)

After section EM 5, insert: 25

EM 5B Fair dividend rate hedge portions: portfolio method

Fair dividend rate hedge portions

(1) This section calculates the fair dividend rate hedge portions for a person's eligible hedges on a portfolio basis under an election provided by **section EM 4**.

Lowest amount 30

(2) The fair dividend rate hedge portion is the lowest of the amounts described in **subsections (4) and (6)**.

Period calculation

(3) The fair dividend rate hedge portion is applied for a period of 1 month or less, as chosen by the person, for all of their eligible hedges. The fair dividend rate hedge portion is calculated before the start of the elected period, and the elected period is irrevocable, and is applied for all of their eligible hedges post- 35

election, for the term of their election to use this portfolio method under **section EM 4(6) and (7)**.

First formula

- (4) For the purposes of **subsection (2)**, the amount is calculated using formula—

$$1 - (\text{non-eligible assets} \div \text{portfolio hedges amount}).$$
 5

Definition of items in formula

- (5) In the formula in **subsection (4)**, all items are expressed in New Zealand currency, and—
- (a) **non-eligible assets** is the total market value of non-eligible assets:
- (b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person's hedges. 10

Second formula

- (6) For the purposes of **subsection (2)**, the amount is calculated using the formula—

$$(1.05 \times \text{eligible assets}) \div \text{portfolio hedges amount}.$$
 15

Definition of items in formula

- (7) In the formula in **subsection (6)**, all items are expressed in New Zealand currency, and—
- (a) **eligible assets** is the total market value of assets described in section EM 1(1)(a) and (b) that the person owns directly, and, if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b): 20
- (b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person's hedges. 25

Defined in this Act: eligible hedge, fair dividend rate hedge portion, hedge, non-eligible assets, qualifying hedge fund

76 Section EM 6 amended (Income and expenditure for fair dividend rate hedge portions)

- (1) In section EM 6(2), formula, replace “FDR portions’ value” with “(FDR portions’ value + period gain – period loss)”. 30
- (2) After section EM 6(3)(a), insert:
- (ab) **period gain** is the net gain multiplied by the FDR hedge portion for relevant eligible hedges that are entered into and settled within the preceding valuation period: 35
- (ac) **period loss** is the net loss multiplied by the FDR hedge portion for relevant eligible hedges that are entered into and settled within the preceding valuation period:

77	Section EM 7 amended (Quarterly test of fair dividend rate hedge portions)	
	After section EM 7(5), insert:	
	<i>Relationship with subject matter</i>	
(5B)	This section overrides section EM 5 , but does not apply if and to the extent to which section EM 5B applies.	5
78	Section EM 8 amended (Some definitions)	
	In section EM 8, after the definition of investor interest , insert:	
	non-eligible assets —	
(a)	means assets that are denominated in a foreign currency and not described in section EM 1(1)(a) and (b); but	10
(b)	does not include—	
(i)	cash assets (for example: cash settlement amounts not yet re-invested) totalling less than 5% of the total market value of a person’s assets described in section EM 1(1)(a) and (b):	15
(ii)	eligible hedges:	
(iii)	New Zealand securities listed on a recognised exchange and denominated in a foreign currency to the extent to which the securities are unhedged as to foreign currency	
	qualifying hedge fund means a person that is a zero-rated investor in a multi-rate PIE if and to the extent to which the multi-rate PIE attributes to the person income from an asset described in section EM 1(1)(a) and (b)	20
79	Section EW 5 amended (What is an excepted financial arrangement?)	
	After section EW 5(3), insert:	
	<i>Cryptoasset</i>	25
(3BA)	A cryptoasset is an excepted financial arrangement if the cryptoasset does not meet the requirements of subsection (3BAB) .	
	<i>Exception: cryptoasset producing specified return on purchase price</i>	
(3BAB)	A cryptoasset is not an excepted financial arrangement if a consequence of ownership of the cryptoasset is that the owner receives, during the period of ownership, amounts that are determined by reference to the quantity or value of the cryptoasset and on a basis that is known by the owner in advance.	30
80	Section EW 46C amended (Consideration when debt forgiven within economic group)	
(1)	In the heading to section EW 46C, replace “ forgiven ” with “ remitted ”.	35
(2)	In section EW 46C(1), words before the paragraphs, replace “forgiven” with “remitted”.	

- (3) Replace section EW 46C(1)(a) with:
- (a) the creditor is a member of the same wholly-owned group of companies as the debtor and,—
- (i) the debtor is a New Zealand resident company:
- (ii) the debtor carries on a business in New Zealand through a fixed establishment in New Zealand and the creditor or an associated person can not deduct, under this Act or a taxation law of a country or territory outside New Zealand, an amount in relation to the remission against income: 5
- (4) In section EW 46C(2)(a), replace “forgiven” with “remitted”. 10
- (5) In section EW 46C(2)(ab), replace “forgiveness” with “remission”.
- (6) In section EW 46C(2)(b)(ii), replace “the amount that the trust forgives the debtor” with “the amount of the trust’s debt that is remitted for the debtor”.
- (7) In section EW 46C(2)(b)(ii), replace “the amount that the single creditor group forgives the debtor” with “the amount of the single creditor group’s debt that is remitted for the debtor”. 15
- (8) In section EW 46C(2)(b)(ii), replace “forgiven” with “remitted” in each place.
- (9) In section EW 46C(4), replace “the creditor forgives it” with “it is remitted”.
- (10) In section EW 46C(5), replace “the creditor forgives it” with “it is remitted”.
- (11) In section EW 46C(6), definition of **proportional debt ratio**, replace “forgiven” with “remitted” in each place. 20
- (12) **Subsections (1), (2), (4), (6), (7), (8), (9), (10), and (11)** apply for a person for the 2008–09 and later income years, except for an income year before the 2015–16 income year for which the person takes a tax position in a return of income that is inconsistent with the amendments made by **subsections (1), (2), (4), (6), (7), (8), (9), (10), and (11)**. 25
- 81 Section FH 11 amended (Residents, or non-residents with deducting branches, having expenditure funding overseas hybrid mismatches)**
- (1) Replace section FH 11(1) with:
- When this section applies* 30
- (1) This section applies for a person, (the **funder**) and an income year when the funder is—
- (a) a New Zealand resident who makes a payment (the **original payment**) to a person in a country or territory outside New Zealand that does not have hybrid mismatch legislation and the original payment meets the requirements of **subsection (1B)**; or 35
- (b) a non-resident, who is resident in a country or territory outside New Zealand that does not have hybrid mismatch legislation and has a deducting

branch in New Zealand, who makes a charge to the deducting branch that meets the requirements of **subsection (1B)**.

Requirements for denial of deduction for original payment or charge

- (1B) An original payment or a charge by a funder meets the requirements of this subsection if— 5
- (a) the original payment or charge provides funds for a payment (the **funded payment**) from a person or other entity (the **payer**) in a country or territory outside New Zealand (the **payer jurisdiction**) to a person or other entity (the **payee**), in the same or another country or territory outside New Zealand (the **payee jurisdiction**); and 10
 - (b) the funds are provided to the payer directly, or indirectly through a series of further transactions (the **intermediate transaction chain**) that are each governed by the tax laws of countries or territories outside New Zealand; and
 - (c) for each transaction in an intermediate transaction chain, each country or territory with tax laws that govern the transaction does not have hybrid mismatch legislation having an intended effect corresponding to this section; and 15
 - (d) a deduction for the original payment, or the charge, would be allowed for the funder in the absence of this section and sections FH 8 to FH 10; and 20
 - (e) the original payment, or the charge, is made under a structured arrangement giving rise to the hybrid mismatch referred to in **paragraph (f)** or the funder and the payer, when the original payment is incurred or the charge is made, are members of a control group; and 25
 - (f) the funded payment gives rise to a hybrid mismatch; and
 - (g) the payee jurisdiction does not have hybrid mismatch legislation that counteracts the hybrid mismatch.
- (2) In section FH 11(2), replace “The” with “Subject to **subsections (5) and (6)**, the”. 30
- (3) Replace section FH 11(4), other than the heading, with:
- (4) Under this subsection, the amount of the denial is the amount of the payment by the funder that can fairly and reasonably be treated as providing, directly or indirectly, funds for an amount of the funded payment that, if hybrid mismatch legislation were applied by the payer jurisdiction, would be disallowed as a deduction against income or equivalent tax relief. 35
- (4) Replace section FH 11(5) with:
- Tracing funding for funded payment, quantifying amount of deduction denied*
- (5) Whether a payment or charge by a funder provides funds for a funded payment under **subsection (1B)(a)** and, if so, the amount under **subsection (4)** that 40

- the funder is denied as a deduction, are determined consistently with the approaches described in chapter 8 of the hybrid mismatch report and chapter 5 of the branch mismatch report.
- (5) After section FH 11(5), insert:
- Deduction allowed in later income year* 5
- (6) A deduction (the **denied deduction**) that is for a payment or charge that provides funds for a funded payment, and is denied under subsection (2) in the income year in which the payment or charge is incurred, is allowed in a later income year to the extent to which—
- (a) the payer jurisdiction would allow a deduction in the later income year for the funded payment if hybrid mismatch legislation were applied by the payer jurisdiction; and 10
- (b) the funded payment is funded by the denied deduction; and
- (c) the denied deduction meets the requirements of section FH 12(8) to be carried forward to the later income year as a mismatch amount. 15
- (6) **Subsection (4)** applies for income years beginning on or after the date on which this Act receives the Royal assent.
- 82 Section FH 15 amended (Definitions)**
- (1) In section FH 15(1), replace the definition of **hybrid mismatch** with:
- hybrid mismatch**, for a payment in a tax year by a payer in a country or territory (the **payer jurisdiction**) means an amount of a deduction for the payment that would be denied by the payer jurisdiction if the payer jurisdiction had legislation having an effect corresponding to that of subpart FH 20
- (2) In section FH 15(1), definition of **hybrid mismatch legislation**, paragraph (b), replace “a provision” with “this subpart or a provision”. 25
- 83 Section FM 8 amended (Transactions between group companies: income)**
- (1) Replace section FM 8(3)(d) with:
- (d) the amount of a dividend derived by a local authority from—
- (i) a council-controlled organisation; or
- (ii) a port company, subsidiary company of a port company, or energy company that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002. 30
- (2) In section FM 8, list of defined terms, insert “council-controlled organisation”.
- (3) **Subsection (1)** applies for the 2022–23 and later income years.
- 84 Section FO 2 amended (Amalgamation rules)** 35
- In section FO 2(b), replace “ CD 43(23) and (24)” with “CD 43(24) and (25)”.

85	Section FO 21 amended (When amalgamating companies are parties to financial arrangements: economic groups)	
	In section FO 21(1)(b), replace “forgiven” with “remitted”.	
86	Section GC 18 amended (Loan features disregarded by rules for transfer pricing arrangements)	5
	In section GC 18(4)(b)(ii), replace “the amount of the borrowing” with “the amount of the borrower’s cross-border related borrowing, including the borrowing.”	
87	Section HF 7 replaced (Taxable Maori authority distributions)	10
	Replace section HF 7 with:	
HF 7 Taxable Maori authority distributions		
A Maori authority distribution is a taxable Maori authority distribution if—		
(a) the source is income of the Maori authority that is—		
(i) derived by the Maori authority in the 2004–05 income year or a later income year; and		
(ii) not exempt income of the Maori authority; and		
(b) it is not a cash distribution made to a member in relation to a notional distribution for which the Maori authority has made an election under section OB 82 (When and how co-operative company makes election).		
Defined in this Act: exempt income, income, income year, Maori authority, member, taxable Maori authority distribution		
Compare: 2004 No 35 s HI 5(2), (3)		
88	Section HR 3 amended (Definitions for section HR 2: group investment funds)	
	In section HR 3(6A)(f), replace “the Housing New Zealand Corporation” with “Kāinga Ora—Homes and Communities”.	25
89	Section HR 9BA amended (Elections to treat debt funding special purpose vehicles as transparent)	
	Replace section HR 9BA(1), other than the heading, with:	
(1) An originator makes an election referred to in section HR 9 by—		
(a) after the first transfer of assets by the originator to the debt funding special purpose vehicle, notifying the Commissioner that the originator chooses to have the liabilities and obligations referred to in section HR 9 that the debt funding special purpose vehicle would have in the absence of the election; or		
(b) in the originator’s first return of income filed after the first transfer of assets by the originator to the debt funding special purpose vehicle,		

returning income derived and expenditure incurred by the debt funding special purpose vehicle.

90 Section LB 1B amended (Treatment of tax credits of certain companies with shareholders who are employees)

In section LB 1B(3), replace “ICA refund of income tax” with “ICA refund of tax or transfer from account”. 5

91 Section LE 2 amended (Use of remaining credits by companies and trustees)

(1) Replace section LE 2(2)(a) with:

(a) a company other than a life insurer or a local authority; or 10

(2) In section LE 2, list of defined terms, insert “local authority”.

(3) **Subsection (1)** applies for the 2022–23 and later income years.

92 Section LY 5 amended (Eligible research and development expenditure)

(1) In section LY 5(1)(a), replace “; but” with “; and”.

(2) After section LY 5(1)(a), insert— 15

(ab) includes expenditure or loss, described in schedule 21B, part A, to the extent to which the expenditure or loss is incurred on a supporting research and development activity conducted—

(i) in the income year immediately before the income year that this subpart first applies for the core research and development activity to which the supporting activity relates: 20

(ii) in the income year immediately after the income year that this subpart last applies for the core research and development activity to which the supporting activity relates; but

(3) **Subsections (1) and (2)** apply for the 2020–21 and later income years. 25

93 Section LY 9 amended (Orders in Council)

In section LY 9, list of defined terms, replace “research and development tax credits” with “research and development tax credit”.

94 Section LY 10 amended (Evaluation)

In section LY 10, list of defined terms,— 30

(a) replace “research and development activities” with “research and development activity”:

(b) replace “research and development tax credits” with “research and development tax credit”.

95 Section MD 9 amended (Fifth requirement: earner)

- (1) In section MD 9(1)(a), replace “a full-time earner” with “an earner”.
- (2) Replace section MD 9(4) with:
 - Compensation payments for incapacities suffered between 1 January 2006 and 31 March 2006* 5
 - (4) A person meets the fifth requirement if—
 - (a) they received a child tax credit for an entitlement period ending on 31 March 2006; and
 - (b) between 1 January 2006 and 31 March 2006 (both dates inclusive), they or their spouse, civil union partner, or de facto partner suffered an incapacity due to personal injury by accident within the meaning of section 26 of the Accident Compensation Act 2001; and 10
 - (c) weekly compensation within the meaning of section 6 of the Accident Compensation Act 2001 is being or will be paid for the incapacity; and
 - (d) at the time of the incapacity, the person or their spouse, civil union partner, or de facto partner— 15
 - (i) was deriving, as a full-time earner, income as set out in subsections (2) and (3), as those subsections were immediately before the amendment made by section 360(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009; and 20
 - (ii) would have been eligible for the tax credit calculated using the formula in section MD 10, as that section was immediately before the amendments made by section 127(1) and (3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012, had this Act come into force before the date of the incapacity. 25
 - (3) In section MD 9(5), replace “are normally a full-time earner as described in subsection (1)(a)” with “normally derive income as set out in subsections (2) and (3) as a full-time earner”.
 - (4) In section MD 9, list of defined terms, insert “full-time earner”. 30

96 Section MX 3 amended (Wage intensity criteria)

- (1) In section MX 3(3)(a)(iv), replace “section RD 3(3) or (4) (PAYE income payments)” with “section RD 3B(3) or RD 3C(4) (which relate to income derived by shareholders who are employees)”.
- (2) In section MX 3(3)(b)(iv), replace “section RD 3(3) or (4)” with “section RD 3B(3) or RD 3C(4)”. 35

97 Section OA 9 amended (General treatment of credits and debits on resident’s restricted amalgamation)

In section OA 9(3), words before the paragraphs, replace “section OA 8(7)(b) and (8)” with “section OA 8(7) and (8)”.

98 Section OB 4 amended (ICA payment of tax)

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(1) Replace the heading to section OB 4 with “**ICA payment of tax or transfer to account**”.

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

(1) An ICA company has an imputation credit for an amount of income tax or provisional tax paid or an amount of excess tax transferred under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies). Subsection (3) overrides this subsection.

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(3) In section OB 4(2), replace “(payment of tax)” with “(provisional tax or income tax paid), row 2B (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 2C (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), and row 2D (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”.

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(4) In section OB 4(4)(a), replace “paragraph (b)” with “**paragraph (c)**”.

(5) Replace section OB 4(4)(b) with:

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(c) for an amount of excess tax transferred in a tax year (the **transfer year**) from another period or tax type of the ICA company on a date under section 173L of the Tax Administration Act 1994, or from another ICA company on a date under section 173M of that Act or section RC 32(5)(b),—

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(i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the transfer year; or

(ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the ICA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act or section RC 32(5)(b), and the ICA to which the transfer is made is in credit; or

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(iii) the date referred to in the opening words of this paragraph, if the requirements of neither **subparagraph (i)** nor **subparagraph (ii)** are met.

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99 Section OB 32 amended (ICA refund of income tax)

- (1) Replace the heading to section OB 32 with “**ICA refund of tax or transfer from account**”.
- (2) In section OB 32(1), after “paid to the company”, insert “or the amount of a transfer of excess income tax or excess provisional tax under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies)”.
- (3) In section OB 32(3)(a), after “(refund of income tax)”, insert “, row 4B (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 4C (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), or row 4D (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”.
- (4) In section OB 32(4), after “debit that arises”, insert “from a refund of income tax”.
- (5) Replace section OB 32(6), other than the heading, with:
- (6) The debit date for—
 - (a) a refund of income tax is the day the refund is made; or
 - (b) an amount of excess tax transferred in a tax year (the **transfer year**) to another period or tax type of the ICA company on a date under section 173L of the Tax Administration Act 1994, or to another ICA company on a date under section 173M of that Act or section RC 32(5)(b), is—
 - (i) despite section 173L(2)(a) to (bb) of the Tax Administration Act 1994, the date of the request for the transfer if that date is in the transfer year; or
 - (ii) despite section 173L(2)(a) to (bb) of the Tax Administration Act 1994, the date of the request for the transfer if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the ICA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act, and the ICA to which the transfer is made is in credit; or
 - (iii) the date referred to in the opening words of this paragraph, if the requirements of neither **subparagraph (i)** nor **subparagraph (ii)** are met.

100 Table O1 amended (Table O1: imputation credits)

In table O1, replace row 2 with:

2	Provisional tax or income tax paid	day of payment	section OB 4(4)(a)
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2B	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 4(4)(c)(i)
2C	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 4(4)(c)(ii)
2D	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of transfer under section 173L, 173M, or RC 32(5)(b)	section OB 4(4)(c)(iii)

101 Table O2 amended (Table O2: imputation debits)

In table O2, replace row 4 with:

4	Refund of income tax	day of refund	section OB 32(6)(a)
4B	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 32(6)(b)(i)
4C	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 32(6)(b)(ii)
4D	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of transfer under section 173L, 173M, or RC 32(5)(b)	section OB 32(6)(b)(iii)

102 Section OK 2 amended (MACA payment of tax)

- (1) Replace the heading to section OK 2 with “**MACA payment of tax or transfer to account**”. 5
- (2) In section OK 2(1), after “or provisional tax”, insert “, or for an amount of excess tax transferred under section 173L of the Tax Administration Act 1994”.
- (3) In section OK 2(2), replace “(payment of tax)” with “(provisional tax and income tax paid), row 2B (transfer under section 173L of the Tax Administration Act 1994), row 2C (transfer under section 173L of the Tax Administration Act 1994), and row 2D (transfer under section 173L of the Tax Administration Act 1994)”. 10
- (4) Replace section OK 2(4), other than the heading, with:
 - (4) The credit date is—
 - (a) for a payment of income tax or provisional tax, the day on which the tax is paid; or 15
 - (b) for an amount of excess tax transferred in a tax year (the **transfer year**) from another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994,—
 - (i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the transfer year; or 20
 - (ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the tax year following the

transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

- (iii) the date of the transfer under section 173L of that Act, if the requirements of neither **subparagraph (i)** nor **subparagraph (ii)** are met.

103 Section OK 3 amended (MACA payment of tax to other Maori authorities) 10

- (1) Replace the heading to section OK 3 with “**MACA transfer of excess tax from other Maori authorities**”.

- (2) Replace section OK 3(1), other than the heading, with:

- (1) A Maori authority has a Maori authority credit for a transfer of excess tax from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies). 15

- (3) In section OK 3(2), replace “(payment of tax to another Maori authority)” with “(transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 3B (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), and row 3C (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”. 20

- (4) Replace section OK 3(3), other than the heading, with:

- (4) The credit date for a transfer of excess tax in a tax year (the **transfer year**) from another Maori authority under section 173M of the Tax Administration Act 1994 is— 25

- (a) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if—

- (i) the date of that request is in the transfer year; or
- (ii) the date of that request is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or 30 35

- (b) the date of the transfer under section 173M of that Act or section RC 32(5)(b), if the requirements of **paragraph (a)** are not met.

104 Section OK 11 amended (MACA allocation of provisional tax)

- (1) Replace the heading to section OK 11 with “**MACA transfer of excess tax to other Maori authorities**”. 40

- (2) Replace section OK 11(1), other than the heading, with:
- (1) A Maori authority has a Maori authority debit for a transfer of excess tax to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies).
- (3) In section OK 11(2), replace “(allocation of provisional tax)” with “(transfer to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 3B (transfer to another Maori authority under section 173M of the Tax Administration Act 1994) or section RC 32(5)(b), and row 3C (transfer to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b))”. 5 10
- (4) Replace section OK 11(3), other than the heading, with:
- (3) The debit date for a transfer of excess tax in a tax year (the **transfer year**) to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) is—
- (a) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the transfer year; or 15
- (b) despite section 173L(2)(a) to (bb) of that Act, the day on which the request for the transfer is made, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or 20
- (c) the day of the transfer under section 173M of that Act or section RC 32(5)(b), if the requirements of neither **paragraph (a)** nor **paragraph (b)** are met. 25

105 Section OK 12 amended (MACA refund of income tax)

- (1) Replace the heading to section OK 12 with “**MACA refund of income tax or transfer of excess tax to period or tax type**”.
- (2) Replace section OK 12(1), other than the heading, with: 30
- (1) A Maori authority has a Maori authority debit for the amount of a refund of income tax paid to the Maori authority or for a transfer of excess tax to another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994.
- (3) In section OK 12(3), after “(refund of income tax)”, insert “, row 4B (transfer from MACA under section 173L of the Tax Administration Act 1994), row 4C (transfer from MACA under section 173L of the Tax Administration Act 1994), and row 4D (transfer from MACA under section 173L of the Tax Administration Act 1994)”. 35
- (4) Replace section OK 12(6), other than the heading, with: 40

- (6) The debit date for—
- (a) a refund of income tax is the day the refund is made; or
 - (b) an amount of excess tax transferred in a tax year (the **transfer year**) to another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994, is—
 - (i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the transfer year; or
 - (ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act and section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or
 - (iii) the date of the transfer under section 173L of that Act, if the requirements of neither **subparagraph (i)** nor **subparagraph (ii)** are met.

106 Table O17 amended (Table O17: Maori authority credits)

- (1) In table O17, replace row 2 with:
- | | | | |
|----|--|------------------------------|-------------------------|
| 2 | Provisional tax and income tax paid | day of payment | section OK 2(4)(a) |
| 2B | Transfer to MACA under section 173L of the Tax Administration Act 1994 | date of request for transfer | section OK 2(4)(b)(i) |
| 2C | Transfer to MACA under section 173L of the Tax Administration Act 1994 | date of request for transfer | section OK 2(4)(b)(ii) |
| 2D | Transfer to MACA under section 173L of the Tax Administration Act 1994 | date under 173L of transfer | section OK 2(4)(b)(iii) |

- (2) In table O17, replace row 3 with:

3	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 3(4)(a)(i)
3B	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 3(4)(a)(ii)
3C	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date under section 173M or RC 32(5)(b) of transfer	section OK 3(4)(b)

107 Table O18 amended (Table O18: Maori authority debits)

- (1) In table O18, replace row 3 with:

3	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 11(3)(a)
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3B	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 11(3)(b)
3C	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date under section 173M or RC 32(5)(b) of transfer	section OK 11(3)(c)

(2) In table O18, replace row 4 with:

4	Refund of income tax	day of refund	section OK 12(6)(a)
4B	Transfer from MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 12(6)(b)(i)
4C	Transfer from MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 12(6)(b)(ii)
4D	Transfer from MACA under section 173L of the Tax Administration Act 1994	date under section 173L of transfer	section OK 12(6)(b)(iii)

108 Section OP 12 amended (Consolidated ICA dividend derived with imputation credit)

- (1) In section OP 12(1), after “company”, insert “that is not a local authority”.
- (2) In section OP 12, list of defined terms, insert “local authority”. 5
- (3) **Subsection (1)** applies for the 2022–23 and later income years.

109 Section OP 30 amended (Consolidated ICA refund of income tax)

- (1) In section OP 30(2),—
 - (a) paragraph (b), replace “the debit.” with “the debit; or”:
 - (b) after paragraph (b), insert: 10
 - (c) a refund of income tax or provisional tax paid to a local authority.
- (2) In section OP 30, list of defined terms, insert “local authority”.
- (3) **Subsection (1)** applies for the 2022–23 and later income years.

110 Section RC 35B amended (Treatment of overpaid provisional tax instalments calculated using AIM method) 15

In section RC 35B(2)(b), replace “ICA refund of income tax” with “ICA refund of tax or transfer from account”.

111 Section RC 38 amended (Crediting income tax with early-payment discount)

In section RC 38(4)(a), replace “6.7%” with “the rate that is 2% greater than the Commissioner’s paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994”. 20

112 Section RC 40 amended (Some definitions)

In section RC 40, definition of **small-business person**, paragraph (a), after “partnership”, insert “or as the owner of a look-through company”. 25

113 Section RD 5 amended (Salary or wages)

Replace section RD 5(1)(c)(iv) with:

- (iv) an amount of income described in section RD 3B(3):
- (ivb) an amount of income described in section RD 3C(4):

114 Section RD 45 replaced (Unclassified benefits)

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(1) Replace section RD 45 with:

RD 45 Unclassified benefits

Liability limited

(1) An employer is liable to pay FBT on an unclassified benefit only within the limits described in this section. 10

Quarterly payment

(2) When FBT is paid quarterly, an employer is liable for FBT on an unclassified benefit provided to an employee in a quarter only if—

- (a) the total taxable value of all unclassified benefits provided in the quarter to the employee by the employer, or by persons associated, at any time in the quarter, with the employer, is more than \$300; or 15
- (b) the total taxable value of all unclassified benefits in the categories described in **subsection (4)** provided in the last 4 quarters including the current quarter, whether accounted for on a quarterly or an income year basis, is more than \$22,500. 20

Yearly payment

(3) When FBT is paid on either an annual basis or an income year basis, except when **subsection (5)** applies, an employer is liable for FBT on unclassified benefits provided to an employee in the tax year or income year only if—

- (a) the total taxable value of all unclassified benefits provided in the tax year or income year to the employee by the employer, or by persons associated, at any time in the tax year or income year, with the employer, is more than \$1,200; or 25
- (b) the total taxable value of all unclassified benefits in the categories described in **subsection (4)** provided in the tax year or income year is more than \$22,500. 30

Categories

(4) The categories, for an employer, are—

- (a) unclassified benefits provided by the employer to their employees:
- (b) unclassified benefits provided by persons associated, at any time in the relevant period, with the employer to employees of the employer: 35
- (c) unclassified benefits provided by the employer to employees of persons associated, at any time in the relevant period, with the employer:

(d)	if the employer is a company, unclassified benefits provided by other companies that are part of the same group of companies as the employer, at any time in the relevant period, to employees of those other companies.	
	<i>Period longer or shorter than income year</i>	5
(5)	When an employer accounts for FBT on an income year basis, and the period for which they have accounted under section RD 60 differs from an income year for the reasons described in subsection (6) , an employer is liable for FBT on unclassified benefits provided in the period only if—	
(a)	the total taxable value of all unclassified benefits provided in the period to an employee by the employer, or by persons associated, at any time in the quarter, with the employer, is more than the figure that is the same fraction or multiple of \$1,200 as the number of days in the period is a fraction or multiple of 365; or	10
(b)	the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the period is more than the figure that is the same fraction or multiple of \$22,500 as the number of days in the period is a fraction or multiple of 365.	15
	<i>Reasons for difference</i>	
(6)	In subsection (5) , the income year for which the employer has accounted may be longer or shorter than the normal income year because the employer has either—	20
(a)	started or ceased business during that income year; or	
(b)	chosen, with the agreement of the Commissioner, to file a return under this subpart for the income year ending with the date of the annual balance of their accounts.	25
	<small>Defined in this Act: associated person, balance date, business, Commissioner, company, employee, employer, FBT, group of companies, income year, pay, quarter, return of income, tax year, unclassified benefit</small>	
(2)	Subsection (1) applies for the 2022–23 and later income years.	30
115	Section RD 67 replaced (Calculating amounts of tax for employer’s superannuation cash contributions)	
	Replace section RD 67 with:	
RD 67	Calculating amounts of tax for employer’s superannuation cash contributions	35
	The amount of tax for an employer’s superannuation cash contribution is—	
(a)	the amount determined under schedule 1, part D, clause 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits), unless paragraph (b) or (c) applies; or	

- (b) 33% of the employer’s superannuation cash contribution, if the contribution is made by a person for the benefit of 1 or more of their past employees and **paragraph (c)** does not apply; or
- (c) 39% of the employer’s superannuation cash contribution, if an employer chooses 39% and the contribution is to a defined benefit fund. 5
- Defined in this Act: amount, amount of tax, defined benefit fund, employer, employer’s superannuation cash contribution
- 116 Section RE 2 amended (Resident passive income)**
- (1) In section RE 2(5)(g), delete “, other than a dividend referred to in section CW 10(3)”. 10
- (2) **Subsection (1)** applies for the 2022–23 and later income years.
- 117 Section RE 10C amended (Obligations of custodial institutions in relation to certain payments of investment income)**
- (1) Replace section RE 10C(7)(a)(ii) with:
- (ii) a custodial institution that is not resident in New Zealand; and 15
- (2) After section RE 10C(7), insert:
- When branches located in New Zealand*
- (7B) For the purposes of **subsection (7)(a)(ii)**, if the non-resident custodial institution has a branch located in New Zealand that receives a payment of investment income, the branch is treated as the person who must withhold the amount of tax for the payment under subsection (3). 20
- (3) **Subsections (1) and (2)** apply for the 2020–21 and later income years.
- 118 Section RE 21 amended (Basis of payment of RWT)**
- In section RE 21(3), replace “they must pay” with “they may pay”.
- 119 Section RF 12 amended (Interest paid by approved issuers or transitional residents)** 25
- (1) In section RF 12(1)(a)(ii), after “a trust”, insert “(a security trust)”.
- (2) Replace section RF 12(1)(a)(iv) with:
- (iv) if the interest relates to related-party debt, is derived at a time when the person is not associated with the approved issuer other than as a beneficiary of a security trust, and the funding provided by the lender under the related-party debt does not meet the requirements in section RF 12H(1)(a)(ii), and the lender does not meet the requirements in section RF 12H(1)(a)(iii): 30
- 120 Section RM 1 amended (What this subpart does)** 35
- (1) Repeal section RM 1(b).

- (2) In section RM 1, list of defined terms, delete “company” and “foreign dividend”.
- 121 Section RM 2 amended (Refunds for overpaid tax)**
- (1) After section RM 2(1), insert:
- Provision of ancillary tax return treated as assessment* 5
- (1BA) For the purposes of this section, the provision by a person of a return for an amount of an ancillary tax for a period is treated as the making of an assessment of the amount of the ancillary tax by the person.
- (2) In section RM 2, list of defined terms, insert “amount” and “ancillary tax”.
- (3) **Subsection (1)** applies in relation to a return for an amount of an ancillary tax for a period regardless of whether the return was or is provided before, on, or after the date on which this Act receives the Royal assent. 10
- 122 Section RM 4 amended (Overpayment on amended assessment)**
- (1) After section RM 4(1), insert:
- Provision of ancillary tax return treated as assessment* 15
- (1B) For the purposes of this section, the provision by a person of a return for an amount of an ancillary tax for a period is treated as the making of an assessment of the amount of the ancillary tax by the person.
- (2) In section RM 4, list of defined terms, insert “ancillary tax”.
- (3) **Subsection (1)** applies in relation to a return for an amount of an ancillary tax for a period regardless of whether the return was or is provided before, on, or after the date on which this Act receives the Royal assent. 20
- 123 Section RM 27 amended (Application when no credits arise)**
- In section RM 27, replace “MACA payment of tax” with “MACA payment of tax or transfer to account”. 25
- 124 Section RP 17 amended (Tax pooling intermediaries)**
- Replace section RP 17(1), other than the heading, with:
- (1) A person (**person A**) may ask a person who maintains a tax pooling account to act as a tax pooling intermediary between person A and the Commissioner in using funds in the tax pooling account to satisfy a liability of person A to pay an amount referred to in section RP 17B(2). 30
- 125 Section RP 17B amended (Tax pooling accounts and their use)**
- (1) After section RP 17B(2)(e), insert:
- (f) a new liability described in **subsection (12)**.
- (2) Replace section RP 17B(4)(a) and (b) with: 35
- (a) on a day that—

<ul style="list-style-type: none"> (i) is, or is after, the first day of the person’s income year corresponding to the tax year; and (ii) is, or is before, the day that is 75 days after the person’s terminal tax date for the tax year, unless paragraph (b) or (c) applies: 	5
<ul style="list-style-type: none"> (b) on a day that— <ul style="list-style-type: none"> (i) is, or is after, the first day of the person’s income year corresponding to the tax year; and (ii) is, or is before, the day that is 76 days after the person’s terminal tax date for the tax year, if the person’s balance date falls at the end of October, November, or December, and the terminal tax date falls in a tax year that includes a 29 February: 	10
<ul style="list-style-type: none"> (3) Repeal section RP 17B(9). (4) Repeal section RP 17B(10). (5) Repeal section RP 17B(11). (6) After section RP 17B(8), insert: 	15
<i>When funds may be used to meet new liability for tax or interest</i>	
<ul style="list-style-type: none"> (12) Subsection (13) applies when— <ul style="list-style-type: none"> (a) a person is liable for an increased amount of a tax in a category referred to in subsection (14), or of interest under Part 7 of the Tax Administration Act 1994 (the Part 7 interest) on an increase in the amount of such a tax; and (b) the liability referred to in paragraph (a) (the new liability) does not relate to a liability of the person that arose from a return by the person, or an assessment of the person, made before the person becomes aware of the new liability; and (c) the person makes a voluntary disclosure of the new liability; and (d) the person notifies the Commissioner of the details of the new liability and the notification results in an assessment of the new liability or in an obligation to pay the new liability; and (e) the person makes the voluntary disclosure referred to in paragraph (c)— <ul style="list-style-type: none"> (i) within a reasonable time after the earliest time that the person or the person’s agent is aware of the person’s new liability; and (ii) before the date of the return referred to in paragraph (d); and (iii) before the person is notified, within the terms of section 141G(4) of the Tax Administration Act 1994, of a pending tax audit or investigation or that a tax audit or investigation has started. 	20 25 30 35

- Commissioner’s discretion to allow use of funds to meet new liability*
- (13) On application by the person, the Commissioner may notify the person that the person may use funds in a tax pooling account to meet the new liability, if the Commissioner is satisfied that the new liability did not arise as a result of a choice by the person not to comply with the person’s obligations under the Inland Revenue Acts or as a result of a failure by the person to take reasonable care to comply with those obligations. 5
- Categories of tax that may be included in new liability*
- (14) The categories of tax that may be included in a new liability for the purposes of **subsection (12)** are— 10
- (a) ESCT:
 - (b) FBT:
 - (c) further income tax:
 - (d) GST:
 - (e) imputation penalty tax: 15
 - (f) income tax:
 - (g) NRWT:
 - (h) PAYE:
 - (i) RSCT:
 - (j) RWT. 20
- 126 Section RP 19 amended (Transfers from tax pooling accounts)**
- Replace section RP 19(3)(a) with:
- (a) for a transfer under section RP 17B(4)(a) or (b), a date nominated that is no earlier than the first day of the relevant income year:
- 127 Section YA 1 amended (Definitions)** 25
- (1) This section amends section YA 1.
- (2) Insert, in appropriate alphabetical order:
- cryptoasset** means a digital representation of value that—
- (a) exists in—
 - (i) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralised form and shared across different locations and persons; or 30
 - (ii) another application of the same technology performing an equivalent function; and 35
 - (b) is designed to be fungible

- (3) Replace the definition of **date of acquisition** with:
- date of acquisition**—
- (a) is defined in section CB 6A (Disposal within 10 years: bright-line test for residential land) for the purposes of that section, section CB 16A (Main home exclusion for disposal within 10 years), and section 54C of the Tax Administration Act 1994: 5
- (b) is defined in section CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018) for the purposes of that section
- (4) In the definition of **decommissioning**,— 10
- (a) paragraph (b), words before the subparagraphs, before “plugging”, insert “permanently”:
- (b) repeal paragraph (b)(ii):
- (c) paragraph (d)(i), before “plugged and abandoned”, insert “permanently”.
- (5) In the definition of **dwelling**, paragraph (c), words before the subparagraphs, replace “section CB 16A (Main home exclusion for disposal within 5 years)” with “sections CB 16A and CZ 40 (which relate to main home exclusions for disposals of residential land within bright-line periods)”. 15
- (6) In the definition of **election day worker**,—
- (a) paragraph (a), replace “a Deputy Returning Officer, poll clerk,” with “an electoral official,”: 20
- (b) paragraph (c), replace “the day on which the election or poll is held” with “the days on which voting is held in New Zealand for the election or poll”.
- (7) In the definition of **employer**, repeal paragraph (d). 25
- (8) Replace the definition of **group of persons** with:
- group of persons**—
- (a) includes 1 person:
- (b) is defined in section CB 16A(5) (Main home exclusion for disposal within 10 years) for the purposes of subsection (4) of that section: 30
- (c) is defined in section CZ 40(5) (Main home exclusion for bright-line: acquisition on or after 29 March 2018) for the purposes of subsection (4) of that section
- (9) Replace the definition of **group of persons** with:
- group of persons**— 35
- (a) includes 1 person:
- (b) is defined in section CB 16A(5) (Main home exclusion for disposal within 10 years) for the purposes of subsection (4) of that section:

- (c) is defined in section CB 16(5) (Residential exclusion from sections CB 6 to CB 11) for the purposes of subsection (4) of that section:
- (d) is defined in section CB 19(2C) (Business exclusion from sections CB 6 to CB 11) for the purposes of subsection (2B) of that section:
- (e) is defined in section CZ 40(5) (Main home exclusion for bright-line: acquisition on or after 29 March 2018) for the purposes of subsection (4) of that section 5
- (10) Insert, in appropriate alphabetical order:
hybrid entity is defined in section FH 15(1) (Definitions)
hybrid mismatch is defined in section FH 15(1) (Definitions) 10
- (11) In the definition of **nominal share**, replace “forgiven” with “remitted”.
- (12) Insert, in appropriate alphabetical order:
non-eligible assets is defined in **section EM 8** (Some definitions)
- (13) In the definition of **principal settlor**, replace “5 years” with “10 years”.
- (14) In the definition of **proportional debt ratio**, replace “forgiven” with “remitted”. 15
- (15) In the definition of **proportional ownership ratio**, replace “forgiven” with “remitted”.
- (16) In the definition of **residential land**, paragraph (a)(iii), replace “may used” with “may be used”. 20
- (17) In the definition of **settlement**, paragraph (c), replace “section CB 16A(3) (Main home exclusion for disposal within 5 years)” with “section CB 16A(7) (Main home exclusion for disposal within 10 years)”.
- (18) **Subsection (16)** applies—
- (a) for purposes of the rules related to the bright-line test for residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, **subsection (16)** does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, **subsection (16)** does not apply to— 25 30
- (i) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 27 March 2021: 35
- (ii) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or

interest upon the completion of the land development or subdivision:

- (b) for other purposes, for the 2021–22 and later income years.

128 Section YA 4 amended (General rules for giving information or communicating matters) 5

In section YA 4(3), replace “post, fax, or electronic means” with “post, or electronic means”.

129 Section YC 13 amended (Corporate spin-outs)

- (1) In section YC 13(1)(b), after “market value interest”, insert “(the **spun-out subsidiary interest**)”. 10

- (2) After section YC 13(1)(d), insert:

(db) after the transfer or issue, the interest in the spun-out company is treated under section YC 10 as being held by a notional single person; and

- (3) In section YC 13(1)(e), replace “the voting interest or market value interest in the spun-out subsidiary”, with “the spun-out subsidiary interest”. 15

- (4) After section YC 13(1), insert:

Modified look-through rule for transitional ownership of spun-out company

- (1B) For the purposes of applying the continuity provisions to the ownership of the spun-out company from the date of the transfer or issue, if the original parent is treated, in the absence of this subsection, as holding an interest in the spun-out company (the **spun-out company interest**) for a period (the **preceding ownership period**) ending with the transfer or issue, the notional single person referred to in **subsection (1)(db)** is treated as holding the spun-out company interest— 20

- (a) during the preceding ownership period; and 25

- (b) to the extent to which, immediately after the transfer or issue, a group of persons exists who hold common interests in the original parent and the spun-out company, calculated on the assumption that the only voting interests and market value interests in those companies are those treated as held by a notional single person under section YC 10. 30

- (5) Replace the heading for section YC 13(2) with “*Modified look-through rule for transitional ownership of spun-out subsidiary*”.

- (6) In section YC 13(2), words before the paragraphs, replace “the voting interest or market value interest in the spun-out subsidiary” with “the spun-out subsidiary interest”. 35

- (7) In section YC 13(2)(a), replace “interest” with “spun-out subsidiary interest”.

130 Section YE 1 amended (References to balance dates and years)

In section YE 1(6), replace “31 March” with “30 March”.

- 131 Section YZ 5 amended (New Zealand Memorial Museum Trust)**
Replace section YZ 5(b) with:
(b) ends on 31 March 2025.
- 132 Schedule 21B amended (Expenditure or loss for research and development tax credits)** 5
(1) In schedule 21B, part B, clause 21, replace “for the Callaghan Innovation project grant.” with “for the Callaghan Innovation project grant. Nor does it include an amount related to an RDTI transition support payment.”
(2) **Subsection (1)** applies for the 2019–20 and later income years.
- 133 Schedule 32 amended (Recipients of charitable or other public benefit gifts)** 10
(1) This section amends schedule 32.
(2) Replace “UN Women National Committee Aotearoa New Zealand Incorporated” with “UN Women Aotearoa New Zealand Incorporated”.
(3) Insert, in appropriate alphabetical order: 15
(a) “Community Transformation Trust”:
(b) “Firefly Children’s Home Charitable Trust”:
(c) “Hadassah Medical Relief Association of New Zealand”:
(d) “Hands Across the Water New Zealand Trust”:
(e) “Institute for Indian Mother and Child Aotearoa Charitable Trust”:
(f) “Medic to Medic”:
(g) “Missio Benevolent Society”:
(h) “Prabh Aasra Trust”:
(i) “Reemi Charitable Trust”:
(j) “Talalelei Life Futures Fund”:
(k) “YWAM Ships Aotearoa Limited”. 20
- (4) Delete— 25
(a) “Books for Cambodia Trust”:
(b) “Channel 2 Cyclone Aid for Samoa”:
(c) “Cyclone Ofa Relief Fund”:
(d) “Cyclone Val Relief Fund”:
(e) “Kyrgyzstan New Zealand Rural Trust”:
(f) “L Women of Africa Fund”:
(g) “The Band Aid Box”:
(h) “The Serious Road Trip Charitable Trust”:
35

- (i) “The Sir Walter Nash Vietnam Appeal”.
- (5) **Subsection (3)** applies for a gift made to a person in the 2021–22 or later income year of the person.

Part 4
Amendments to other enactments 5

Amendments to Tax Administration Act 1994

134 Amendments to Tax Administration Act 1994

Sections 135 to 174 amend the Tax Administration Act 1994.

135 Section 3 amended (Interpretation)

- (1) This section amends section 3(1). 10
- (2) In the definition of **civil penalty**, after paragraph (cc), insert:
 - (cd) a penalty under **section 141EE**; or
- (3) Insert, in appropriate alphabetical order:
 - electronic sales suppression tool** means a software program, device, or other thing, part of a thing, or combination of things or parts,— 15
 - (a) that can modify, falsify, destroy, or prevent the creation of a record that—
 - (i) a person is required under a tax law to make or keep; and
 - (ii) is, or would be, created by a system that is or includes an electronic point of sale system; and 20
 - (b) the use of which would lead to a reasonable conclusion that 1 of its principal functions is to facilitate the modification, falsification, destruction, or prevention of the creation of a record.
- (4) In the definition of **employment income information**, after “80D,”, insert “**108AB**, 108B,”. 25
- (5) In the definition of **proscribed question**, paragraph (b), delete “, other than in relation to the test of principal purpose of making taxable supplies as described in section 91CB(3)(c)”.
- (6) In the definition of **START tax type**, after paragraph (g), insert:
 - (gb) casino duty: 30
 - (gc) lottery duty:
 - (gd) totalisator duty:
- (7) Repeal the definition of **START tax type**.
- (8) In the definition of **tax shortfall**, paragraph (b), replace “section 46(6B)” with “section 23K”. 35

- 136 Section 14 amended (Modes of communication: general provisions)**
In section 14(2), replace “post, fax, or electronic means” with “post, or electronic means”.
- 137 Section 14F amended (Giving information by personal delivery, post, fax, or electronic means)** 5
- (1) In the heading to section 14F, replace “**post, fax, or electronic means**” with “**post, or electronic means**”.
- (2) Repeal section 14F(3)(b).
- (3) Repeal section 14F(8).
- 138 Section 14G amended (Contact addresses)** 10
- Repeal section 14G(1)(d).
- 139 Section 16C amended (Key terms)**
- (1) Replace section 16C(2)(a) with:
- (a) in connection with a revenue law and for a purpose set out in section 16B(1): 15
- (2) In section 16C(3)(a),—
- (a) replace “means revenue information that relates to the affairs of a person or entity” with “means revenue information”:
- (b) in subparagraph (i), replace “the person or entity” with “a person or entity”. 20
- (3) After section 16C(3)(b), insert:
- (c) does not include information if the only person or entity that it identifies is the Commissioner or chief executive of the Inland Revenue Department, unless it relates to the application of the Inland Revenue Acts to the Inland Revenue Department as a taxpayer. 25
- 140 Section 25MB amended (Information from custodial institutions)**
- (1) Replace section 25MB(8)(a)(ii) with:
- (ii) a custodial institution that is not resident in New Zealand; and
- (2) After section 25MB(8), insert:
- When branches located in New Zealand* 30
- (9) For the purposes of **subsection (8)(a)(ii)**, if the non-resident custodial institution has a branch located in New Zealand that receives a payment of investment income, the branch is treated as the person who must provide investment income information relating to the payment under subsection (3).
- (3) **Subsections (1) and (2)** apply for the 2020–21 and later income years. 35

141 New section 25NB inserted (De minimis filing requirements for certain persons)

- (1) After section 25N, insert:

25NB De minimis filing requirements for certain persons

When this section applies 5

- (1) This section applies when a person is required to withhold an amount of tax under—
- (a) section RE 21(3) of the Income Tax Act 2007;
 - (b) section RF 13(2) of that Act;
 - (c) section 86KA of the Stamp and Cheque Duties Act 1971. 10

When this section does not apply

- (2) This section does not apply when a person withholds an amount of tax referred to in section RE 21(6) and (7) of the Income Tax Act 2007.

Delivery of investment income information

- (3) Despite sections 25E, 25F, and 25H, the person may deliver the investment income information for the payment to the Commissioner— 15
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) for the period in the tax year from 1 April to 30 September, by 20th October after the end of the period; and 20
 - (c) for the period in the tax year from 1 October to 31 March, by 20th April after the end of the period.

- (2) **Subsection (1)** applies for the 2022–23 and later income years.

142 New section 33F inserted (Research and development tax credits: extension of time for 2019–20 income year) 25

After section 33E, insert:

33F Research and development tax credits: extension of time for 2019–20 income year

The time for a person to file a supplementary return under section 33E for the 2019–20 income year is extended to 31 August 2021, or such later date otherwise allowed by that section. 30

143 Section 43B amended (Non-active trusts may be excused from filing returns)

- (1) Replace the heading for section 43B with “**Trustees of non-active trusts and administrators or executors of non-active estates may be excused from filing returns**”. 35

- (2) Replace section 43B(1) and (2) with:
- (1) A person who is a trustee of a trust or an administrator or executor of an estate is not required to make a return of income for a tax year for the trust or estate if—
- (a) the trust or estate is non-active throughout the income year corresponding to the tax year; and 5
 - (b) for a person who is a trustee, the trust is a complying trust under section HC 10 of the Income Tax Act 2007; and
 - (c) the person has provided to the Commissioner, in a form approved by the Commissioner,— 10
 - (i) a declaration that the trust or estate is non-active and that the person will notify the Commissioner if the trust or estate ceases to be non-active; and
 - (ii) a statement of the matters required by the Commissioner.
- (2) For the purposes of this section, a trust or estate is non-active for a tax year if, throughout the income year corresponding to the tax year, the trustee of the trust or the administrator or executor of the estate— 15
- (a) has not derived any income; and
 - (b) has no deductions; and
 - (c) has not been a party to, or perpetuated, or continued with, transactions with assets of the trust or estate which, during the corresponding income year,— 20
 - (i) give rise to income in any person’s hands; or
 - (ii) give rise to fringe benefits to an employee or to a former employee. 25
- (3) In section 43B(3),—
- (a) words before the paragraphs, replace “trust” with “trust or estate”;
 - (b) paragraph (a),—
 - (i) replace “trustees” with “persons”;
 - (ii) replace “trust” with “trust or estate”: 30
 - (c) paragraph (c), replace “trust” with “trust or estate”;
 - (d) paragraph (d), replace “trust” with “trust or estate” in each place.
- (4) In section 43B(4),—
- (a) replace “a trust” with “a trust or estate”;
 - (b) replace “trustee of the trust” with “trustee of the trust or administrator or executor of the estate”: 35
 - (c) replace “that the trust” with “that the trust or estate”;
 - (d) replace “a non-active trust” with “non-active”.

- (5) In section 43B(5), replace “trustees of a non-active trust shall” with “a person who is a trustee of a non-active trust or an executor or administrator of a non-active estate must”.

144 Section 68CB amended (Research and development tax credits: general approval)

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After section 68CB(7), insert:

- (7B) The Commissioner may vary an approval, upon application, to the extent to which the variation application relates solely to a supporting research and development activity for the income year immediately after the relevant income year, as provided by **section LY 5(1)(ab)(ii)** of the Income Tax Act 2007, if the variation application meets the requirements of subsection (1)(a) of this section, the variation applied for meets the requirements of subsection (4) of this section, and the application is made on or before the 7th day of the 14th month after the end of the relevant income year. If the Commissioner accepts the variation, then the Commissioner must notify the person in accordance with subsection (5) of this section. 10
- (7C) The Commissioner may vary an approval, upon application, to the extent to which the variation application relates solely to a supporting research and development activity for the 2019–20 income year, if the variation application meets the requirements of subsection (1)(a) of this section, the variation applied for meets the requirements of subsection (4) of this section, and the application is made on or before 31 August 2022. If the Commissioner accepts the variation, then the Commissioner must notify the person in accordance with subsection (5) of this section. 15 20

145 New section 68CF inserted (Research and development tax credits: extension of time for approvals for 2020–21 income year)

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- (1) After section 68CE, insert:

68CF Research and development tax credits: extension of time for approvals for 2020–21 income year

The time for a person to make an application, or an application to vary, in relation to an approval under sections 68CB and 68CC for the 2020–21 income year is extended to 31 August 2021, or such later date otherwise allowed by those sections. 30

- (2) **Subsection (1)** applies for the 2020–21 and later income years.

146 Section 89B amended (Commissioner may issue notices of proposed adjustment)

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Replace section 89B(4)(b)(ii) with:

- (ii) sections 108A and 108B; or
 (iii) sections **108AB** and 108B,—

147 Section 89L (Application to High Court)

In section 89L(1)(b)(ii), replace “section 108(2) or section 108A(3)” with “section 108(2), **108AB(2)**, or 108A(3)”.

148 Section 89P amended (Challenge notice for taxpayer-initiated disputes)

Replace section 89P(2) with:

(2) Despite subsection (1), the Commissioner is not required to issue a challenge notice—

(a) to the extent to which the dispute has ended:

(b) when—

(i) the Commissioner has issued an amended assessment that reflects some but not all of the adjustments proposed by the disputant; and

(ii) the disputant has a right of challenge under section 138B(2).

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

After section 108(1C)(a)(i), insert:

(ib) provides a return for an amount required to be deducted under section 221 of the Accident Compensation Act 2001 for a period which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer:

150 New section 108AB inserted (Time bar for amending assessment of KiwiSaver contributions)

After section 108A, insert:

108AB Time bar for amending assessment of KiwiSaver contributions

(1) The Commissioner may not amend an assessment so as to increase an amount assessed when—

(a) a taxpayer provides employment income information that includes—

(i) an amount required to be deducted under Part 3, subpart 1 of the KiwiSaver Act 2006 which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer:

(ii) an amount of KiwiSaver Act 2006 employer contributions payable which, for the purposes of this section, is treated as the making of an assessment of the amount by the taxpayer; and

(b) 4 years have passed from the date on which the taxpayer provided the employment income information.

(2) However, if the Commissioner is of the opinion that employment income information provided by a taxpayer is fraudulent or wilfully misleading, the Commissioner may amend the assessment at any time so as to increase its amount.

(3) This section overrides every other provision of this Act, and any other rule or law, that limits the Commissioner’s right to amend assessments.

151 Section 108B amended (Extension of time bars)

- (1) In section 108B(3)(f), replace “provided.” with “provided; and”.
- (2) After section 108B(3)(f), insert: 5
 - (fb) the time bar occurring under **section 108AB** after the period of 4 years from the date on which the taxpayer provided the employment income information.

152 Section 113 amended (Commissioner may at any time amend assessments)

- (1) In section 113(1), replace “sections 89N and 113D” with “section 89N”. 10
- (2) **Subsection (1)** applies for the 2019–20 and later income years.

153 Section 113A amended (Correction of certain errors in subsequent returns)

In section 113A(4),—

- (a) words before the paragraphs, after “assessment”, insert “or return, as applicable.”: 15
- (b) replace paragraph (b) with:
 - (b) 2% of the person’s—
 - (i) output tax, in the case of an assessment of goods and services tax; or
 - (ii) annual gross income, in any other case. 20

154 Section 125 amended (Certain rights of objection not conferred)

In section 125(j)(iv), replace “108A, 108B,” with “108A, **108AB**, 108B,”.

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

- (1) In section 138E(1)(e)(iv), replace “17F,” with “6E, 6F, 17F,”. 25
- (2) In section 138E(1)(e)(iv), delete “108A,”.
- (3) **Subsection (2)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

156 Section 138P amended (Powers of hearing authority)

In section 138P(5), replace “108A, and 108B” with “108A, **108AB**, and 108B”. 30

157 Section 139A amended (Late filing penalty for certain returns)

- (1) Repeal section 139A(10).
- (2) **Subsection (1)** applies for penalties imposed after 1 April 2022.

158 Section 139AA amended (Non-electronic filing penalty)

- (1) Repeal section 139AA(7).
- (2) **Subsection (1)** applies for penalties imposed after 1 April 2022.

159 Section 139B amended (Late payment penalty)

- (1) Repeal section 139B(1B). 5
- (2) In section 139B(3B), replace “section 24LC(3) or 157” with “section 157 or schedule 5, part C, clause 4(3)”.
- (3) In section 139B(5A), replace “section 24LC(3) or 157” with “section 157 or schedule 5, part C, clause 4(3)”.
- (4) **Subsection (1)** applies for penalties imposed after 1 April 2022. 10

160 New section 141EE inserted (Penalty for acquiring or possessing electronic sales suppression tools)

After section 141ED, insert:

141EE Penalty for acquiring or possessing electronic sales suppression tools

- (1) This section applies to a person who— 15
 - (a) is required by a tax law to make or keep records; and
 - (b) knowingly acquires, or has possession or control of an electronic sales suppression tool (the **suppression tool**), or a right to use a suppression tool; and
 - (c) has a purpose in relation to the suppression tool of evading the assessment or payment of tax under a tax law, whether by them or by another person. 20
- (2) This section does not apply when the person—
 - (a) acquires a business whose operations include the use of the suppression tool or the right to use it; and 25
 - (b) could not reasonably be expected to be aware of the existence of the suppression tool in the business; and
 - (c) has not used the suppression tool in the business.
- (3) The person is liable to pay an electronic sales suppression penalty of \$5,000.
- (4) For the purposes of the imposition of a penalty under **subsection (3)**, a person to whom this section applies is treated as committing a single offence in relation to all tax types and periods. A further penalty may be imposed for a later period of time for the continued possession or control of, or right to use, the suppression tool. 30
- (5) For the purposes of **subsection (1)(c)**, and without limiting the provision, a person is treated as meeting the purpose test if they have used the suppression tool to evade the assessment or payment of tax. 35

161 Section 141FB amended (Reduction of penalties for previous behaviour)

After section 141FB(5), insert:

- (6) Despite subsection (1), no reduction in the amount payable is allowed when an electronic sales suppression penalty is imposed under **section 141EE(3)** on a person—
- (a) who is liable to a penalty under section 141E(1); and
 - (b) whose use of an electronic sales suppression tool contributes to the evasion or similar act.

5

162 New section 141GB inserted (Reduction of electronic sales suppression penalties)

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After section 141G, insert:

141GB Reduction of electronic sales suppression penalties

- (1) This section applies when a person—
- (a) is liable to pay an electronic sales suppression penalty imposed under **section 141EE**; and
 - (b) discloses to the Commissioner details relating to the acquisition, possession, control, or use of the electronic sales suppression tool.
- (2) The penalty payable by the person may be reduced if, in the Commissioner’s opinion, the person has made a full disclosure of all the details relating to the suppression tool.
- (3) The disclosure referred to in **subsection (1)** may be either—
- (a) a pre-notification disclosure made before the person is notified of a pending tax audit or investigation; or
 - (b) a post-notification disclosure made after the person is notified of a pending tax audit or investigation, but before the Commissioner starts the audit or investigation.
- (4) The level by which the penalty is reduced under **subsection (2)** is—
- (a) for pre-notification disclosure, 100%;
 - (b) for post-notification disclosure, 40%.
- (5) Section 141G(4) and (5) apply for the purposes of **subsection (3)** in determining—
- (a) whether a person has been notified of a pending tax audit or investigation; and
 - (b) the time at which an audit or investigation starts.
- (6) The Commissioner may specify the information required for a full disclosure and the form in which it must be provided.

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163 Section 143 amended (Absolute liability offences)

- (1) In the heading to section 143, after “**offences**”, insert “**and strict liability offences**”.
- (2) In section 143(1)(ba),—
- (a) replace “a tax invoice” with “taxable supply information”: 5
- (b) replace “section 24” with “**section 19K or 19L**”.
- (3) In section 143(1)(c), replace “1985.” with “1985; or”.
- (4) After section 143(1)(c), insert:
- (d) claims, under section 20(3) of the Goods and Services Tax Act 1985, more than 1 amount of input tax for a taxable supply to the person, resulting in a total amount of input tax claimed by the person for the taxable supply that exceeds the output tax charged to the person for the taxable supply. 10
- (5) After section 143(2C), insert:
- (2D) No person may be convicted of an offence against **subsection (1)(d)** if the person proves that the person, either or both, 15
- (a) took reasonable care when claiming the amounts of input tax:
- (b) corrected, under section 113A of the Tax Administration Act 1994, the amount claimed for input tax.
- (6) **Subsections (2), (3), (4), and (5)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 20

164 Section 143A amended (Knowledge offences)

- (1) Repeal section 143A(1)(f).
- (2) In section 143A(1)(fb), replace “section 24BAB(3)” with “**section 19M(3)**”.
- (3) In section 143A(1)(fc), replace “section 24BAC” with “**section 12C**”. 25
- (4) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.

165 New sections 143BB and 143BC inserted

After section 143B, insert:

- 143BB Manufacturing or supplying electronic sales suppression tools** 30
- (1) A person commits an offence against this Act if they knowingly manufacture, develop, or publish an electronic sales suppression tool (the **suppression tool**) that is provided to a person referred to in **subsection (2)**, or **sections 141EE or 143BC**.
- (2) A person commits an offence against this Act if they— 35

- (a) knowingly supply, make available for use, or otherwise provide the suppression tool or a right to use the suppression tool to a person resident in New Zealand:
- (b) knowingly provide a service to a person resident in New Zealand that includes the use of the suppression tool. 5
- (3) A person who is convicted of an offence under **subsection (1) or (2)** is liable to a fine not exceeding \$250,000.

143BC Acquiring or possessing electronic sales suppression tools

- (1) A person commits an offence against this Act if they—
 - (a) are required by a tax law to make or keep records; and 10
 - (b) knowingly acquire, or have possession or control of an electronic sales suppression tool (the **suppression tool**), or a right to use the suppression tool; and
 - (c) have a purpose in relation to the suppression tool of evading the assessment or payment of tax under a tax law, whether by them or by another person. 15
- (2) **Subsection (1)** does not apply when the person—
 - (a) acquires a business whose operations include the use of the suppression tool or a right to use it; and
 - (b) could not reasonably be expected to be aware of the existence of the suppression tool in the business; and 20
 - (c) has not used the suppression tool in the business.
- (3) A person who is convicted of an offence under **subsection (1)** is liable to a fine not exceeding \$50,000.
- (4) For the purposes of the imposition of a penalty under **subsection (3)**, a person to whom this section applies is treated as committing a single offence in relation to all tax types and periods. A further penalty may be imposed for a later period of time for the continued possession or control of, or right to use, the suppression tool. 25
- (5) For the purposes of **subsection (1)(c)**, and without limiting the provision, a person is treated as meeting the purpose test if they have used the suppression tool to evade the assessment or payment of tax. 30

166 Section 143D amended (Offences related to disclosure of certain information by persons other than revenue officers)

After section 143D(1)(a), insert: 35

- (ab) a person who acquires, has access to, or is given the information as an officer, employee, or agent of an agency referred to in schedule 7, part C, clauses 20, 23, 23B, 24 to 29, 30, 31, 33, 34A, 35 to 38, 39B, 42, 44, 45, and 45B; or

- 167 Section 157A amended (Application of Parts 7 and 9 to defaulters)**
After section 157A(1)(a)(i), insert:
(ib) section 12L of the Gaming Duties Act 1971; or
- 168 Section 173K amended (Application)**
After section 173K(2), insert: 5
(3) Subsection (2) does not apply for Part O of the Income Tax Act 2007.
- 169 Section 183ABAB amended (Remission of interest for taxpayers affected by COVID-19: general rules)**
Replace section 183ABAB(4) with:
(4) The time limit imposed by subsection (3)(b) may be extended by Order in Council— 10
(a) made on the recommendation of the Minister of Revenue; and
(b) made before, or no more than 6 months after, the time limit (the **previous time limit**) applying immediately before the Order in Council comes into force; and 15
(c) extending the time limit by no more than 36 months from the previous time limit for—
(i) all persons affected by the previous time limit; or
(ii) a class or classes of persons affected by the previous time limit and described in the Order in Council. 20
- 170 Section 183C amended (Cancellation of interest)**
(1) Repeal section 183C(4B)(b).
(2) In section 183C(4B)(c), replace “the START tax type” with “the tax assessed”.
(3) In section 183C(4C), replace “the START tax type” with “the tax assessed”.
(4) Repeal section 183C(4D)(b). 25
(5) In section 183C(4D)(c), replace “the START tax type” with “the tax assessed”.
(6) In section 183C(4E), replace “the START tax type” with “the tax assessed”.
(7) **Subsections (1), (2), and (3)** apply for statements of account issued by the Commissioner after 1 April 2022.
- 171 Section 225 amended (Regulations)** 30
(1) Repeal section 225(1)(c) and (d).
(2) Repeal section 225(2).
- 172 Section 225AA repealed (Regulations: co-operative dairy and marketing companies)**
Repeal section 225AA. 35

173 Schedule 7 amended (Disclosure rules)

- (1) In schedule 7, part C, subpart 1, replace clause 23B(2) to (5) with:
- (2) Despite subclause (1), the Commissioner may disclose the information only if the Commissioner considers that—
 - (a) the information is readily available; and 5
 - (b) it is reasonable and practicable to disclose the information; and
 - (c) it is not undesirable to disclose the information; and
 - (d) the information is reasonably necessary for the purpose referred to in subclause (1).
- (2) Repeal schedule 7, part C, subpart 1, clause 36. 10
- (3) Repeal schedule 7, part C, subpart 2, clauses 41 and 42.

174 Schedule 8 amended (Reporting of income information by individuals and treatment of certain amounts)

- (1) In schedule 8, part B, clause 2(2)(a), replace “section 25A” with “section 26B”.
- (2) Replace schedule 8, part B, clause 2(3)(c)(i) with: 15
 - (i) a schedular payment:

Amendments to Child Support Act 1991

175 Amendments to Child Support Act 1991

Sections 176 to 186 amend the Child Support Act 1991.

176 Section 40AA amended (Interpretation for purposes of sections 40 to 45) 20

In section 40AA, definition of **election period**,—

- (a) replace paragraph (b) with:
- (b) if notice of the election is given under section 40(1) during the child support year, the period in the child support year that starts on the first day of the month in which the notice is given and ends on the last day of the child support year; and 25
- (b) paragraph (c) (as inserted by the Child Support Amendment Act 2021), replace “after the end of” with “during or after”.

177 Section 40 amended (Estimated income)

- (1) After section 40(4)(d), insert: 30
 - (da) notice of the election is given after the child support year to which it relates, and the person has made an earlier election for that child support year; or
- (2) In section 40(8) (as inserted by the Child Support Amendment Act 2021), replace “after the end of” with “during or after”. 35

- (3) In section 40(9) (as inserted by the Child Support Amendment Act 2021), delete “the end of”.

178 Section 44 amended (End-of-year reconciliation)

In section 44(3D) (as inserted by the Child Support Amendment Act 2021), definition of **reconciliation period**, after paragraph (a)(i), insert:

- (ia) if the notice of the election is given during or after the child support year under section 40(8), the first day of the month in which the formula assessment begins; or

179 Section 81A replaced (Amendments of assessments arising from living circumstances existing at time initial assessment made)

Replace section 81A (as inserted by the Child Support Amendment Act 2021) with:

81A Amendments of assessments arising from living circumstances existing at time when assessment begins

- (1) This section applies if—
- (a) the Commissioner made an assessment on the basis that certain living circumstances existed at the time when the assessment begins; and
 - (b) the recipient of the assessment advises the Commissioner—
 - (i) that those circumstances did not exist at that time; and
 - (ii) of the relevant living circumstances that did exist at that time; and
 - (c) section 82 does not apply.
- (2) The Commissioner may backdate any amendment made under section 87 to the time when the assessment begins if the recipient of the assessment advises the Commissioner within the period of 28 days beginning with the date of the notice of assessment.
- (3) The Commissioner may also backdate any amendment made under section 87 to the time when the assessment begins if the recipient of the assessment—
- (a) is a liable parent, and the backdating has the effect of increasing the amount of the parent’s child support liability:
 - (b) is a receiving carer, and the backdating has the effect of decreasing the amount of child support payable in respect of that carer.
- (4) However, the Commissioner may only backdate any amendment made under section 87 to the time when the assessment begins if—
- (a) the recipient has provided to the Commissioner such supporting documentation as the Commissioner requires; and
 - (b) the Commissioner is satisfied that—

- 5
- (i) the assessment was made on the basis that certain living circumstances existed at the time when the assessment begins that did not in fact exist at that time; and
- (ii) the relevant living circumstances advised by the recipient did exist at that time.
- (5) Otherwise, an amendment of the assessment under section 87 is effective only from the date on which the recipient advises the Commissioner.
- 180 Section 87A amended (Four-year time bar for amendment of certain assessments)**
- (1) In section 87A(1)(a) (as inserted by the Child Support Amendment Act 2021), replace “in which the assessment was given” with “to which the assessment relates”.
- (2) In section 87A(3)(c) (as inserted by the Child Support Amendment Act 2021), after “paid”, insert “, or is liable to pay”.
- 181 Section 88 amended (Notice of assessment of formula assessment of child support)**
- In section 88(3A) (as inserted by the Child Support Amendment Act 2021), replace “was made” with “begins”.
- 182 Section 89H amended (Applications for exemptions under this subpart)**
- Replace section 89H(1)(ca) (as inserted by the Child Support Amendment Act 2021) with:
- (ca) in the case of an application for an exemption under section 89CA, include evidence, as reasonably required by the Commissioner, to satisfy the Commissioner that, during the period to which the application relates, the applicant—
- 25
- (i) has a long-term period of illness; and
- (ii) is unable to engage in paid work as a result of the long-term period of illness; and
- 183 Section 152B amended (Offsetting child support payments)**
- In section 152B(1) (as inserted by the Child Support Amendment Act 2021), after “assessment”, insert “or a voluntary agreement”.
- 184 Section 180D amended (Sections 180B and 180C to cover child support penalties)**
- (1) Repeal section 180D(a) and (b).
- (2) Before section 180D(c), insert:
- 35
- (ba) a penalty (as defined in section 135) imposed in relation to child support:

(bb) a pre-2021 penalty (as defined in section 135) imposed in relation to child support:

- 185 Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)**
- (1) In Schedule 1, Part 4, clause 13, repeal the definition of **old Act**. 5
- (2) Repeal Schedule 1, Part 4, clause 14.
- (3) In Schedule 1,—
- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- 186 Schedule 3 amended (Expenditure on children)** 10
- In Schedule 3, table, heading above the fifth to seventh columns, delete “, *or the oldest 3*”.
- Amendments to KiwiSaver Act 2006*
- 187 Amendments to KiwiSaver Act 2006**
- Sections 188 to 197** amend the KiwiSaver Act 2006. 15
- 188 Section 4 amended (Interpretation)**
- (1) This section amends section 4(1).
- (2) Insert, in appropriate alphabetical order:
- assessment** has the same meaning as in section 3(1) of the Tax Administration Act 1994 20
- (3) In the definition of **employer contribution**, after paragraph (b), insert:
- (bb) if the employer knows that the employee has opted out, does not include an amount that would otherwise be an employer contribution; and
- 189 Section 80 amended (Refund by Commissioner of amounts paid in excess of required amount of deduction or if employee opts out)** 25
- After section 80(2), insert:
- (3) This section is subject to **section 91B**.
- 190 Section 81 amended (Refund by provider of amounts paid in excess of required amount of contribution or if member opts out)**
- After section 81(3), insert: 30
- (4) This section is subject to **section 91B**.
- 191 Section 81B amended (Residual refunds)**
- In section 81B, insert as subsection (2):

(2) This section is subject to **section 91B**.

192 Section 83 amended (Unclaimed money held by Commissioner)

Replace section 83(3)(c) with:

- (c) as if the words “more than \$100” in the words before the subparagraphs in section 4(3)(a) of the Unclaimed Money Act 1971 were replaced with the words “1 cent or more”; and 5

193 New cross-heading and section 91B inserted

After section 91, insert:

Time bar for refunding contributions

91B Time bar for refunding contributions 10

- (1) A provider must not refund an amount of contribution paid to the provider by the Commissioner in respect of a member of that provider’s KiwiSaver scheme that is in excess of the amount that is required to be paid to the provider under the KiwiSaver scheme and this Act if—
- (a) the amount is— 15
- (i) an amount that was deducted from the member’s salary or wages; or
- (ii) an amount of employer contribution; and
- (b) the amount has arisen on an amended assessment; and
- (c) the 4-year period under **section 108AB** of the Tax Administration Act 1994 for amendment of an assessment has ended; and 20
- (d) the Commissioner has not requested the provider to refund the amount to the Commissioner.
- (2) The Commissioner must not refund an amount of contribution that is in excess of the amount that this Act requires to be deducted or paid if— 25
- (a) the amount is—
- (i) an amount that was deducted from a member’s salary or wages; or
- (ii) an amount of employer contribution; and
- (b) the amount has arisen on an amended assessment; and
- (c) the 4-year period under **section 108AB** of the Tax Administration Act 1994 for amendment of an assessment has ended. 30
- (3) For the purposes of this section, the provision by a person of employment income information for an amount of a contribution for a payday is treated as the making of an assessment of the amount of the contribution by the person.

- 194 Section 100 amended (Refunds of employer contribution by Commissioner if employee opts out)**
In section 100, insert as subsection (2):
(2) This section is subject to **section 91B**.
- 195 Section 101 amended (Refunds of employer contribution by provider)** 5
After section 101(1B), insert:
(1C) This section is subject to **section 91B**.
- 196 Section 101AA amended (What Commissioner must do with employer contribution refunded by provider)**
After section 101AA(2), insert: 10
(3) This section is subject to **section 91B**.
- 197 Section 114 amended (Refunds if employee loses, etc, savings suspension notice)**
After section 114(3), insert:
(4) This section is subject to **section 91B**. 15

Amendments to Student Loan Scheme Act 2011

- 198 Amendments to Student Loan Scheme Act 2011**
Sections 199 and 200 amend the Student Loan Scheme Act 2011.
- 199 Section 211 amended (Meaning of notify)**
In section 211(1),— 20
(a) paragraph (a), replace “post, or fax; or” with “post; or”:
(b) paragraph (d), replace “electronic means (except a fax), if” with “electronic means, if”.
- 200 Section 212 amended (Meaning of notify a person in writing)**
In section 212(1),— 25
(a) paragraph (a), replace “post, or fax; or” with “post; or”:
(b) paragraph (b), replace “electronic means (except a fax), if” with “electronic means, if”.

*Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters)
Act 2020*

- 201 Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 amended**
- (1) This section amends the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020. 5
- (2) Repeal the following provisions:
- (a) section 2(37):
- (b) section 235:
- (c) section 239(3). 10
- Revocation of Co-operative Dairy Companies Income Tax Regulations 1955*
- 202 Co-operative Dairy Companies Income Tax Regulations 1955 revoked**
Revoke the Co-operative Dairy Companies Income Tax Regulations 1955.
- Revocation of Cooperative Milk Marketing Companies Income Tax Regulations 1960* 15
- 203 Cooperative Milk Marketing Companies Income Tax Regulations 1960 revoked**
Revoke the Cooperative Milk Marketing Companies Income Tax Regulations 1960.
- Revocation of Cooperative Pig Marketing Companies Income Tax Regulations 1964* 20
- 204 Cooperative Pig Marketing Companies Income Tax Regulations 1964 revoked**
Revoke the Cooperative Pig Marketing Companies Income Tax Regulations 1964. 25

Schedule

New Part 5 inserted into Schedule 1 of Child Support Act 1991

s 185(3)

Part 5

Provisions relating to Taxation (Annual Rates for 2021–22, GST, and
Remedial Matters) Act 2021 5

23 Interpretation in this Part

In this Part,—

2021 Act means the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act **2021** 10

commencement, in relation to any provision of the 2021 Act, means the commencement of that provision.

24 Replacement of section 81A (Amendments of assessments arising from
living circumstances existing at time when assessment begins)

Section 81A (as replaced by **section 179** of the 2021 Act) applies on and after commencement, including if the assessment begins, was made, or both, before commencement of **section 179** of the 2021 Act. 15

25 Amendments to section 87A (Four-year time bar for amendment of certain
assessments)

The amendments to section 87A made by **section 180** of the 2021 Act apply in respect of all child support years, whether ending before commencement or on or after commencement of **section 180** of the 2021 Act. 20

26 Amendment to section 152B (Offsetting child support payments)

The amendment to section 152B made by **section 183** of the 2021 Act applies to all child support years, regardless of the period in which the liability to pay financial support arose or when an amount of financial support became due and payable. 25