

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

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Introduction

This omnibus tax bill would amend 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
- Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020
- Unclaimed Money Act 1971
- Child Support Amendment Act 2021.

It would also repeal three regulations.

The bill has three main purposes. It seeks to improve the current tax settings by ensuring that the current tax rules are working as intended. The bill also seeks to modernise the tax settings regarding the Inland Revenue Department's administration of Kiwi-Saver and Working for Families. Finally, the bill would set the annual rates of income tax for the 2021/22 tax year.

Supplementary Order Paper 64

The Government has introduced Supplementary Order Paper (SOP) 64 alongside the bill. The SOP proposes adding five additional measures to the bill which would:

- limit interest deductibility on residential investment properties
- introduce a 5-year bright-line period for owners of new build properties
- amend bright-line rules to accommodate the proposed changes
- provide employers with another option for paying fringe benefit tax
- clarify the application of the business continuity test for carrying forward losses.

We have examined the SOP alongside the bill. We have included recommendations for improvements to the SOP in this commentary. Because the SOP has been incorporated into the bill, any recommended amendments to the provisions in the SOP would be made to the bill.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

In this commentary we discuss the main changes we recommend to the bill, including those proposed by SOP 64 which we considered alongside the bill. We have organised our comments by topic, rather than by following the order of the clauses as they appear in the bill.

Our recommendations cover the following topics:

- changes to GST rules
- interest limitation
- bright-line test changes
- local authority taxation
- modernising GST information rules
- other GST remedial measures
- a backstop date for commencement of certain provisions.

We do not discuss minor, technical, or consequential changes.

Changes to GST rules

Cryptoassets

The bill would exclude cryptoassets from GST and financial arrangement rules to ensure that these rules do not impose barriers on cryptoassets as a method of innovation, investment, or capital raising.

We recommend some amendments to provisions relating to cryptoassets.

Fungibility component of the definition of cryptoasset

The bill would define a cryptoasset as a “digital representation of value” that, among other things, is “designed to be fungible” (clause 5). Broadly, the term “fungible” means something which, by its nature, can be freely swapped or exchanged for an identical item of the same kind. For example, banknotes are fungible because one banknote can be swapped for another note with the same dollar value.

Some submitters suggested that the definition in the bill, as introduced, could be problematic. There are already over 15,000 different types of cryptoasset. A cryptoasset’s original design may differ from its eventual use, and there may be cryptoassets that are semi-fungible.

We agree that a fungibility requirement could be ambiguous. The intent of this provision was to exclude “non-fungible tokens” (NFTs) from the definition of cryptoassets. We believe that the wording of the bill could better reflect this intent.

We recommend removing the fungibility requirement from the cryptoasset definition, and instead adding a definition of NFTs into clauses 5(2) and 127(12B). We then recommend amending the definition of cryptoassets to expressly exclude NFTs.

Exempting cryptoasset brokerage services from GST

The bill would redefine “goods” and “services” in the Goods and Services Tax Act (GST Act) to expressly exclude cryptoassets (clause 5(2) and (3)). This would have the effect of exempting cryptoassets from GST.

Under the GST Act, the supply of financial services is exempt from GST (section 14). Financial services include brokerage and commissioning services for stocks (section 3). However, some submitters suggested that it is unclear whether cryptoasset-related brokerage and commissioning services are exempt from GST.

We agree that the bill could be clearer in this regard. We believe that brokerage and commissioning services for options over cryptoassets should be exempt from GST, like equivalent services for shares and fiat currency.

Therefore, we recommend inserting new clause 5B into the bill to amend section 3 of the GST Act. This would expand the definition of “financial services” to include brokerage and commissioning services provided in relation to options over cryptoassets. Consequently, these services would be exempt from GST under section 14 of that Act.

Importantly, we note that this does not change the Act’s definition of “currency”. Cryptoassets would remain outside the definition of “currency” in New Zealand.

Derivatives over cryptoassets

Similarly, submitters questioned how the bill would tax cryptoasset derivatives.

Under the Income Tax Act, certain financial arrangements are excepted from the financial arrangement rules. Futures over shares are subject to the financial arrangements rules, whereas options over shares are excepted financial arrangements.

Clause 79, as introduced, would amend section EW 5 of the Income Tax Act to state that cryptoassets are excepted financial arrangements. The policy intent behind these changes in the bill is to avoid discriminating between cryptoassets and other investment products. We agree that derivatives over cryptoassets should receive the same treatment as derivatives over shares.

We recommend amending clause 79 to ensure that derivatives over cryptoassets and shares are treated equally. We propose new clause 79(2), which would amend section EW 5(13) of the Income Tax Act to state that an option to acquire or dispose of cryptocurrency is an excepted financial arrangement.

Input tax deduction caps should better target property developers

Clauses 7(4) and 25 would amend GST apportionment rules in section 21F of the GST Act. These rules determine GST input tax deductions when disposing of an asset that is used partly to conduct a GST-registered business and partly for a private or exempt use.

These changes would amend apportionment rules so that people are not overtaxed when selling an appreciating asset that is used for taxable and non-taxable purposes. Clause 25 would change the formulas used in section 21F to ensure that tax deductions reflect the proportion of that asset's non-taxable use.

However, under proposed section 21F(6), different rules would apply to property developers disposing of land. The intent of this provision is to cap the final adjustment amount that property developers can make under the apportionment rules.

Some submitters suggested that the wording of proposed section 21F(6) could mistakenly capture registered persons who are not property developers. Submitters suggested that this clause could better target property developers by redefining the clause to apply to a “registered person who carries on a business of developing land”. This language reflects that used in other tax legislation.

We agree that the clause should better highlight this intent, to ensure that the new rules do not extend to persons who are not property developers. Consequently, we recommend amending clause 25(3), proposed section 21F(6), to state that the adjustment caps would apply if the disposal is of land “that the person uses in the course or furtherance of a taxable activity of developing land or dividing land into lots”.

Interest limitation

SOP 64 would introduce measures to limit interest deductibility for residential investment properties. The purpose of limiting interest deductibility is to make residential property a less attractive investment option. Dampening investor demand in the housing market should have a cooling effect on the market and increase ownership by first-home buyers.

The policy intent is that the interest limitation rules should apply to property that is, or could foreseeably be, used for long-term residential accommodation.

Certain types of residential property would be exempt under clause 64E of the SOP. These include:

- an owner-occupier’s main home
- most business premises
- farmland
- certain Māori land, papakāinga and kaumātua housing
- emergency, transitional, social, and council housing
- retirement villages and rest homes
- student and employee accommodation.

We propose several amendments to these measures, to improve the workability of the rules.

Exemptions for social, emergency, transitional, and council housing

Proposed section DH 4(4) and (5) of the Income Tax Act 2007 would exempt social and council housing from the interest limitation rules.

We are concerned that the current definition of social housing may not apply to some social housing leased by some government agencies. Examples might be Oranga Tamariki—Ministry for Children, and Ministry of Health addiction and rehabilitation services. That would place these agencies at a disadvantage compared to other social housing providers, which was not the intent of the provision.

It is also likely that the council housing exemption would only apply to housing owned by a council-controlled organisation and used by that organisation to provide housing. However, it would not apply where the council leases housing to use for the same purpose.

We recommend amending proposed section DH 4(4) to clarify that housing leased by government departments for non-transitional or non-emergency accommodation for the public should qualify for the exemption. We also recommend amending proposed section DH 4(5) to extend the council housing exemption to leased properties that are used to provide council housing.

Clarify the meaning of “sole purpose” in the exemptions

As introduced, the social and council housing exemptions would apply to housing where that is its “sole purpose”. We note that without this requirement it could be possible for an owner to lease one room on the property for social housing, and thereby claim the exemption for that entire property.

However, the “sole purpose” requirement could bar social or council housing which also provides other on-site wraparound services or support for residents. This was not the intent of this provision. We recommend amending clause 64E, proposed section DH 4(4) and (5), to ensure this does not occur. Our proposed amendment would state

that the relevant exemption applies where the land is used for services connected with social or council housing or accommodation.

Excepted residential land

The SOP would insert Schedule 15 into the Income Tax Act. Schedule 15 contains several types of “excepted residential land” that would not be subject to interest limitation.

Some submitters proposed expanding the classes of property that would be included as “excepted residential land”. They suggested including boarding houses, serviced apartments, and short-stay accommodation.

We are ultimately not recommending substantive changes to these provisions. However, we recommend several clarifying amendments to some excepted residential property rules to ensure they apply as intended. We are guided by the policy intent that interest limitation rules should apply to property that is, or could foreseeably be, used for long-term residential accommodation. Our proposed amendments include:

- Clarifying that large commercial-scale boarding establishments are exempt. These remain distinct from “boarding houses”, as defined in the Residential Tenancies Act 1986.
- Providing that trustees of a trust may only qualify for the exception for a beneficiary or settlor of that trust if a principal settlor of the trust does not have a separate main home. This would prevent people from restructuring assets into trusts and avoiding interest limitation by claiming the property is the beneficiary’s main home.
- Ensuring that housing provided to a shareholder or beneficiary of a Māori entity, on land owned by one of that entity’s wholly-owned subsidiaries, is exempt.
- Extending the Māori excepted land definition to land that is co-owned by multiple iwi or hapū, but only when providing housing to a member or shareholder of one of those entities.

Exemptions for new builds and property development

Under proposed section DH 4 of the Income Tax Act, interest on new build land would be deductible for 20 years and then become non-deductible. The intent is to increase available housing supply through tax benefits for new build land, by ensuring interest limitation rules do not disincentivise people from building new properties.

Several submitters recommended broadening the definition of “new build” to include:

- improving, renovating, repairing, or maintaining existing dwellings
- remediating existing dwellings
- extensive remediation of uninhabitable dwellings.

Some of these activities are required by other laws (for example, to adhere to healthy homes standards), and others may make a property nicer to live in but do not necessa-

rily increase the available supply of housing. We therefore do not consider that these should be considered “new builds” or otherwise receive tax incentives by exempting the activities from interest limitation rules.

However, we consider that a new build exemption should apply in some situations where remediation of an existing dwelling prevents it from falling out of available housing supply. In expanding this exemption, we aim to make these rules as clear and objective as possible, so would avoid using subjective terms such as “uninhabitable”.

We recommend amending proposed section DH 5 so that the definition of new build land would apply to existing dwellings in two specific situations. These are where:

- a dwelling has been on the earthquake-prone buildings register, but remediated and removed from the register on or after 27 March 2020
- a leaky home has been substantially (at least 75%) re-clad.

The earthquake prone buildings register, and records held by building consent and local authorities (including code compliance certificates), are verifiable criteria that would allow for clear application of the new build exemption.

We also recommend amendments to clause DH 4(3). This clause relates to exemptions for interest incurred in developing, dividing, or building for the purpose of creating new build land (the development exemption).

As introduced, clause DH 4(3) would provide that, where a taxpayer sells a property at a loss after developing it, the development exemption would not apply after the property is disposed of. We are concerned that this could discourage people from taking development risks, which may negatively affect new housing supply. We recommend amending clause DH 4(3) so that the development exemption can continue to apply after land is disposed of.

High inflation rates affect interest deductions

Given the change to interest deductibility rules, we asked advisers about the relationship between inflation and taxation. We were interested in how high inflation rates would affect deductibility of interest costs as an expense.

We were told that the tax system works on “nominal” rather than “real” interest rates, and that these rates can differ significantly. The real interest rate (in simple terms) is the nominal interest rate minus the inflation rate. This means that, when inflation is high, the effective tax rate is lowered. For example, advisers noted that the interest rate in December 2021 was 4.9 percent and inflation was 5.9 percent. Therefore, the real interest rate was -1.0 percent.

We note that, in respect of the December 2021 quarter, landlords who claim interest as an expense deduction at the nominal rate would be claiming a tax deduction for something which was, in real terms, not an expense at all.

Changes to the bright-line test provisions

When a person sells a house within a certain number of years after purchasing it, the sale’s proceeds may be taxable. The bill as introduced would extend the “bright-line”

period from 5 years to 10 years for some properties. The main home would continue to be excluded from the bright-line test, and new builds (if not the main home) would be subject to a 5-year bright-line period.

We are not recommending any large policy changes to the bill's bright-line provisions. However, we recommend several minor amendments to improve workability of these rules. The main changes are discussed below.

Main home exclusion

For the main home exclusion to apply, the property must have been a person's main home for the entire period of ownership. However, existing law allows for an owner to not occupy the property for up to 12 months, so long as this 12-month period precedes or follows a period of main home use. This allows for some flexibility, for example where a homeowner takes an extended holiday, or temporarily relocates for work.

Clause 48, new section CB 16A(6)(d)(ii) as proposed in the SOP would clarify that, where an owner is making reasonable efforts to construct their main home, the construction period can be counted as "main home days", even if this is longer than 12 months. This provision would ensure that construction delays do not result in owners being taxed on gains attributable to the construction period.

We recommend replacing the term "reasonable efforts" with a "reasonable time" test. This would mean that the entire period can be counted as "main home days", provided that the period is reasonable.

5-year new build bright-line test

We also recommend amending proposed section CB 6A(2)(b)(i) to expand the properties covered by the 5-year new build bright-line test.

Under the bill as introduced, where a person owns new build land, and then builds another dwelling on their property, that "new" new build would not be considered a new build because the land had already qualified for the new build exemption. It therefore would be subject to a 10-year bright-line period, rather than the 5-year period for new builds.

Our amendment would make it clear that a subsequent purchaser of the "new" new build would qualify for the 5-year new build bright-line test for the "new" new build portion of the land. This is subject to the other requirements of the new build bright-line test (for example, the property must be purchased within 12 months of receiving a code compliance certificate for the purchaser to benefit from the new build bright-line test).

We also recommend amending proposed section CB 6A(1)(b)(iii). The intent of this provision, as introduced, was to close a loophole where owners could potentially benefit from the new build bright-line test by moving a dwelling (such as a tiny house) on and off the land at the time of sale. We are concerned that this could prevent a new build property from qualifying where it has been destroyed because of a natural disaster or fire. Our proposed amendment would clarify that properties qualify

for the new build bright-line test if they would have qualified for the test but have been destroyed because of a natural disaster or fire.

Expanding rollover relief provisions

“Rollover relief” allows some property transfers to be ignored for the purposes of the bright-line test. Rollover relief applies to situations where legal ownership of a property changes, but economic ownership remains unchanged. Rollover relief allows the owner to defer the tax assessment point until a change of ownership occurs that is not eligible for rollover relief.

We recommend amending several provisions to broaden the scope of rollover relief in the bill. The types of transactions that we propose for rollover relief carry a very low risk of tax avoidance and cover the most common situations which result in little or no change of economic ownership. They include:

- certain corporate transactions
- some transactions involving look-through companies or partnerships
- property that is transferred from a trust back to the settlor.

We also recommend clarifying the application of the bright-line rules when there is a change in the co-ownership of residential land. For example, if parents become co-owners of a property with their adult children and later sell their share of the property to the children, the parents would be disadvantaged if the start of their bright-line period for any remaining share they own “restarts” on the date of the sale to the children. Our recommended amendment would prevent this from occurring.

Local authority taxation

The bill also aims to improve the integrity of the tax system as it applies to local authorities. As introduced, it contains provisions that would (among other things):

- treat dividends derived by a local authority from a wholly-owned council-controlled organisation (CCO), port company, or energy company as exempt income
- remove local authorities’ ability to claim deductions for charitable donations
- prevent local authorities from deducting finance costs relating to CCOs
- remove the ability for local authorities to convert unused imputation credits to a tax loss.

We recommend several amendments to these provisions. We discuss our key recommendations below.

Extend the dividend exemption to partly-owned CCOs

Under current law, most of a local authority’s income is tax exempt.

Clause 55 of the bill would extend the tax-exempt status to dividends a council receives from CCOs. This would be limited to dividends from CCOs that are wholly-owned by the council.

We recommend extending the dividend exemption to partly-owned CCOs too.

Under existing law, any income that a council derives from a CCO is taxable. This is to prevent “profit shifting” where a council could, for example, charge a CCO above-market rent. The rent would be tax deductible for the CCO, but would not be taxable income for the local authority due to its tax-exempt status.

The bill, as introduced, took a similar stance for dividends. However, dividends are not tax deductible for the CCO, so we do not believe there are profit-shifting concerns that would require the bill to treat dividends from partly- and wholly-owned CCOs differently.

We recommend amending clause 55, and recommend that these changes take effect for the 2022/23 income year.

Unused imputation credits

Companies can “impute” the income tax they have paid by attaching imputation credits to any shareholder dividends. The company passes on the income tax benefits to its shareholders (which prevents those dividends from being taxed twice).

The bill as introduced would prevent local authorities from converting unused imputation credits to a tax loss (clause 91). The intent behind this is to prevent an integrity risk like the “profit shifting” example given earlier.

However, our above recommendation that the dividend exemption apply to all dividends derived by local authorities would also resolve this issue. If all dividends are exempt, recipients cannot claim a tax credit for any attached imputation credits.

Given that our proposal would resolve the integrity risk in a simpler way, we recommend removing clause 91 from the bill.

Remove the financing deductions provisions

Clause 59 of the bill would prevent a local authority from claiming tax deductions for interest incurred on borrowed money that is on-lent to a CCO. The authority would still be permitted to claim deductions where that money is on-lent to a council-controlled trading organisation (CCTO) as CCTOs have assessable income that is not deductible.

However, we are concerned that the Income Tax Act and the Local Government Act 2002 define CCOs differently. We believe that this issue requires further consultation, and should be addressed in the future. We also note that the local government sector may undergo broader reforms, which would have implications for local authority taxation. Financing deductions could be addressed alongside those other reforms.

Therefore, we recommend removing clause 59 from the bill.

Modernising GST information rules

The bill also seeks to modernise rules for GST invoices. We recommend several minor changes to the bill to improve the implementation and workability of these

rules. Of note, we recommend delaying implementation of these provisions. We discuss the main changes, and our rationale for delaying implementation, below.

We acknowledge that updating GST rules will affect many individuals and businesses. We also acknowledge that tax law is a complicated subject and not all individuals can hire specialist tax advisers to assist them in complying with the Act's requirements.

We are proposing several amendments to this part of the bill to ensure that the language used is easy to understand. We also expect that Inland Revenue would produce guidance for registered persons about how these new rules may affect New Zealanders.

Retain “invoice” and “tax invoice”

Under current law, registered persons must create and retain tax invoices for taxable supplies. To be valid, tax invoices must contain specific information about the transaction, and the parties involved, in a prescribed form. For example, the invoice must clearly state that it is a tax invoice.

The bill would simplify some of these requirements. For example, it would replace the terms “invoice” and “tax invoice” with “supply information” and “taxable supply information” (clause 19). Sale records which meet these simplified requirements would be valid tax records, regardless of the form.

Some submitters told us that removing terms such as “tax invoice” would have unintended consequences for existing legal and commercial documents which use that term. We acknowledge this issue and recommend inserting clause 19Q to state that any references to old terminology are treated as references to the new terminology and read in line with the intent of the issued document. We also note that the bill would not prohibit any person from using the word “invoice” if they wish.

Supplier does not require recipient's details for small transactions

Clause 19, proposed section 19E of the GST Act, would require a supplier to record a recipient's details in the taxable supply information. This may include the recipient's name and physical address.

Several submitters noted, and we agree, that this requirement would be difficult in practice. Large businesses might be able to comply with this requirement in respect of their regular trade customers. However, many other businesses would face increased costs to comply with the information gathering required by this provision.

We recommend including a *de minimis* rule for this requirement. Supply information for values of less than \$1,000 would be subject to simpler information requirements. We note that the current Act has a similar allowance in section 24(4), which the bill would repeal. Our amendment would, in effect, ensure that the bill does not increase tax record requirements for small transactions.

We achieve this by amending clause 19, proposed section 19E to better reflect existing *de minimis* rules.

Application deferred until 2023

Under the bill as introduced, the above changes to GST information requirements would come into force on the day that the bill received Royal assent.

We are concerned that this would not provide sufficient time for many taxpayers to understand and implement the new requirements. We recommend amending the implementation provisions in clause 2 to provide that clause 19 would come into effect one year after the bill receives Royal assent. The new tax information requirements would then apply to taxable periods beginning on or after 1 April 2023.

Other GST remedial measures

The bill would make several remedial changes to provisions of the GST Act. Many of these are retrospective in nature. We have considered the effect and scope of these provisions and are satisfied that retrospective application is appropriate.

We recommend several technical changes to these parts of the bill, but do not discuss them in detail in this commentary.

Order in Council “backstop date” for clause 173(2)–(3)

Schedule 7 of the Tax Administration Act details the circumstances in which Inland Revenue (IRD) may share information with other agencies. Clauses 36 and 41–42, respectively, relate to information sharing with the Ministry of Business, Innovation and Employment, and with ACC (the Accident Compensation Corporation). Inland Revenue is currently developing updated information-sharing agreements with these agencies.

As introduced, clause 173(2)–(3) of the bill would repeal clauses 36 and 41–42, to allow the new information-sharing agreements to take effect once approved. The commencement provisions in clause 2 provide that clause 173(2)–(3) would come into force on a date to be set by Order in Council.

The bill uses this mechanism because the new information-sharing agreements have not been finalised yet. Having these provisions come into force on a date set by Order in Council would allow each agreement, once approved, to take effect on the same date that the old information-sharing provisions were repealed. This would prevent the information-sharing provisions and information-sharing agreements from overlapping or contradicting each other, or the information-sharing provisions expiring before the agreements are ready for implementation.

However, the Regulations Review Committee recommended that the commencement provisions also require that the provision come into force automatically after a certain date. This “backstop” date would ensure that the provision comes into force as Parliament intended and in a timely manner. Alternatively, the Regulations Review Committee suggested that these provisions could be removed from the bill and incorporated into future legislation once the approved information-sharing agreements had been finalised.

We agree with the committee’s assessment. We recommend removing all provisions relating to the information-sharing agreement with ACC as this is unlikely to be finalised in 2022. It may be included in future tax legislation. We then recommend inserting a new clause 173(4) to state that clause 173(2) would be repealed on 1 April 2025. This would remove the ability for an Order in Council to repeal clause 36. New legislation would then be needed to repeal that provision, once the agencies involved have finalised an information-sharing agreement.

New Zealand National Party differing view

National does not support this bill for two principal reasons.

The bill would confirm the current tax thresholds. National is concerned that, with rapidly rising inflation, many New Zealanders will move into higher tax brackets (referred to as fiscal drag) and end up paying more tax as a consequence. The Treasury forecasts significant increases in tax revenue for the Government as a result of this occurrence.

Our second concern is that the bill would impose new rules relating to the bright-line test for residential property. National is opposed to increasing this to 10 years. We are concerned many New Zealanders will be caught by the new provisions. For example, if military personnel are asked to serve overseas for more than 12 months, they would effectively need to pay a capital gains tax on any increase in the value of their property while posted overseas. We are also concerned that parents who assist their children to purchase their first home by paying part of the deposit would be captured under the rules and would pay tax when their children repay them.

ACT Party differing view

The ACT Party opposes this tax bill. It believes that introducing a 39 percent tax rate simply punishes people who work hard, save, invest, and try to make tomorrow better than today. In the ACT Party’s opinion, the Government constantly seeks to divide people and punishes them for working hard. Instead, it should unite New Zealanders and create an environment that fosters new ideas, investment, and activity so all New Zealanders can live in a country where we can all prosper.

When the Government announced its housing tax changes around interest deductibility, the Government painted it as “being kind” and “targeting speculators”. This is not being kind. It is divisive.

Removing interest deductibility for property investors is bad policy. Income tax is supposed to be on income, but this effectively makes it a revenue tax. And it will become a tax on renters.

The official advice the Government received on interest deductibility changes said that it would cause rents to rise, force landlords to sell, and hurt renters. Advice estimated these policies would cost the average landlord an additional \$4,000. A majority of economists, academics, and property experts believe the Government’s housing changes will be paid for by tenants. This divisive policy targets residential property

investors but will actually squeeze the middle class and hurt some of the most vulnerable people in New Zealand.

ACT wanted to listen to how the proposed changes would impact people: mum and dad landlords, renters, grandparents ready to retire, and those hoping to get on the property ladder.

Many landlords told us they hold their rent as low as they can to protect their vulnerable tenants but, because of the Government's changes, they now have no choice but to sell. One landlord told us their tenant was a survivor of domestic violence. They now have no choice but to sell and are worried their tenant will have nowhere to live. Another told us their tenant has criminal convictions but is trying to put his life back together. He worries no other landlord will take a chance on him and that he and his family will end up in unsuitable emergency housing.

We know that the real reason for interest deductibility changes is to line the Government's coffers. In Budget documents released last year, Treasury told the Finance Minister that if interest deductibility had been fully implemented in 2018/19, it could have generated revenue in the order of \$800 million. It is a tax grab.

ACT believes the changes won't address housing affordability. They will hurt renters and make it harder for Kiwis to save for a first home.

ACT wishes to note that 15,208 New Zealanders signed a petition in deputy leader Brooke van Velden's name opposing interest deductibility rule changes.

Labour's extension of the bright-line test has created a capital gains tax by stealth. When National introduced the bright-line test in 2015, David Seymour said:

...this tax is the acorn of a capital gains tax. It is a measure that will grow from 2 years to 5 to 10 to 15 years. You watch: it will eventually apply to a wider range of homes. It is the acorn that the National Party has planted that will grow into a full-blown capital gains tax.

The pre-2015 law would have seen tax paid on income from property speculation. The bright-line test was unnecessary but has been allowed to grow into a CGT.

We oppose this bill. We oppose the Government's measures to remove interest deductibility and extend the bright-line test. ACT would reverse the interest deductibility changes and abolish the bright-line test completely.

Our focus must be on easier planning rules and smarter infrastructure funding. Only that will address housing affordability for the next generation.

Appendix

Committee process

The Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill was referred to the committee on 23 September 2021.

The closing date for submissions on the bill was 9 November 2021. We received and considered 82 submissions from interested groups and individuals. We heard oral evidence from 31 submitters.

We received advice on the bill from the Inland Revenue Department, and our independent tax adviser, Therese Turner. The Office of the Clerk provided advice on the bill's legislative quality. The Inland Revenue Department assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clause 2.

Committee membership

Dr Duncan Webb (Chairperson)

Andrew Bayly

Hon Simon Bridges

Barbara Edmonds

Ingrid Leary

Anna Lorck

Greg O'Connor

Damien Smith

Chlöe Swarbrick

Simon Watts

Helen White

**Taxation (Annual Rates for 2021–22, GST, and
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Key to symbols used in reprinted bill

As reported from a select committee

text inserted

text inserted by a majority

text deleted

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Hon David Parker

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

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 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), 5B, 49B, 79, 85D, and 127(2)** come into force on 10
1 January 2009.
- (4) **Section 7(2)** comes into force on 1 April 2010.
- (5) **Section 68** comes into force on 4 September 2010.
- (6) **Sections ~~24(4)~~ and 67** comes into force on 1 April 2011.
- (7) **Section 61** comes into force on 1 April 2013. 15
- (7B) Section 127(1DB) and (17C) come into force on 1 April 2015.
- (7C) Section 80BAE comes into force on 1 April 2016.
- (8) **Sections 52(2), 96, 113, and 119** come into force on 30 March 2017.
- (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. 20
- (10B) Section 133(2A) comes into force on 11 August 2017.
- (11) **Sections 81(4), (2), (3), and (5), 82, 86, and 127(10)** come into force on 1 July 2018.
- (12) **Sections 69 and 127(7FB) and (17D)** comes into force on 1 January 2019.
- (13) **Section 139** comes into force on 18 March 2019. 25
- (14) **Sections 56, 64, 66, 80, 93, 94, 112, 124, 126, 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.
- (17) **Section 153** comes into force on 23 March 2020. 30
- (18) **Sections 64F, 68BA, 68BAB, 70B, 80BA, 80BAB, 80BAC, 80BAD, 85B, 89B, 89C, 89D, 89E, 89F, 89G, 89H, 89I, 89J, 89K, 92, 117, 127(7GB) and (17E), 140, 144, 144B, 145, and 174** come into force on 1 April 2020.
- (18B) Section 89L comes into force on 15 April 2020.
- (19) **Section 133(2)** comes into force on 4 May 2020. 35
- (20) **Section 95(2), (3), and (4)** come into force on 1 July 2020.

- (20B) **Section 55B** comes into force on 1 August 2020.
- (20C) **Section 169B(1)(a) and (4)** come into force on 7 August 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, 56B, 57, 57B, 58, 61B, 64B, 64BB, 64C, 64CB, 64D, 64DB, 64E, 80B, 85C, and 127(1B), (1C), (1CB), (1CC), (1CD), (1D), (1E), (3), (4B), (5)(b), (6B), (7B), (7C), (7D), (7DB), (7E), (7F), (7G), (7H), (8), (10B), (10C), (10D), (10E), (10F), (13), (16), (16B), (16C), (17), (17B), and (18), and 131B** come into force on 27 March 2021. 5
- (24) **Sections 127(9), and 192, and 200B** come into force on 30 March 2021. 10
- (25) **Sections 95(1), 114B, 114C, 114D, 114E, 115, 131, 133(3), 139C, 184, and 185(1), and (2), and (2B)** come into force on 1 April 2021.
- (25B) **Sections 188B, 188C, 188D, 188E, and 197B** come into force on 1 September 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~~ 8 September 2021. 15
- (26B) **Sections 179, 180, 181, 182, and 183** come into force on 26 October 2021.
- (27) **Section 169** comes into force on 25 March 2022. 20
- (27B) **Sections 143C and 201B** come into force on 31 March 2022.
- (28) **Sections 50B54, 54, 54B, 55, 58, 59, 60, 63, 70, 71, 72, 73, 74, 75, 76, 77, 78, 80C, 83, 94, 108, 109, 111, 114, 145, 116, 127(5)(a), (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. 25
- (28B) **Sections 5(4), 12, 19, 21(1), (2), (3), and (9), 24, 26(1) and (2), 27(1) and (2), 28, 29, 30, 31(3), (5), (6B), (6C), (7), and (9), 32, 33, 34, 36, 37(5B), (5C), and (5D), 38(1B), (1C), and (3), 39, 40, 42, 43, 44, 163(2) and (7), and 164(2), (3), and (5)** come into force on 1 April 2023. 30
- (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

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. 5

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. 10

5 Section 2 amended (Interpretation)

(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 15

~~(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 20~~

~~(b) the name of the person~~

(c) insert, in appropriate alphabetical order:

issuing member means the member responsible under **section 55B55 or 55B** for issuing the ~~taxable supply information tax invoice, credit note, or debit note~~ for each supply made by a member of a GST group or supplier group 25

(d) insert, in appropriate alphabetical order:

member supply means a supply by a member of a GST group or 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 30

(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

(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

5

~~(h) insert, in appropriate alphabetical order:~~

~~**recipient details**, for a recipient of a taxable supply of goods or services, means—~~

~~(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:~~

10

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

~~(ii) a telephone number;~~

~~(iii) an email address;~~

15

~~(iv) a trading name other than the GST trade name;~~

~~(v) a New Zealand business number;~~

~~(vi) a Uniform Resource Locator address for a web site~~

(hb) replace the definition of **supplier** with:

supplier, in relation to a supply of goods and services, means—

20

(a) for a supply to which **paragraph (b)** does not apply, the person who makes the supply; or

(b) for a supply that is subject to a provision in Part 9, the person who is treated by the provision as making the supply

(i) insert, in appropriate alphabetical order:

25

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~~ tax invoice, credit note, or debit note for each supply of goods and services by 1 or more members of the group

~~(j) insert, in appropriate alphabetical order:~~

30

~~**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—~~

35

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

~~(b) the recipient details of the recipient; and~~

~~(e) the amount of the consideration that the recipient is obliged to provide to the supplier for the supply~~

~~(f) 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)**;~~

~~(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**;~~

~~(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~~

(2) In section 2(1),—

(a) 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~~

~~(ii) another application of the same technology performing an equivalent function; and~~

~~(b) is designed to be fungible~~

~~cryptoasset means a digital representation of value that exists in—~~

~~(a) 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~~

~~(b) another application of the same technology performing an equivalent function~~

~~(ab) insert, in appropriate alphabetical order:~~

~~cryptocurrency means a cryptoasset that is not a non-fungible token~~

- (ac) insert, in appropriate alphabetical order:
non-fungible token means a cryptoasset that contains unique distinguishing identification codes or metadata
- (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”.
- (4) In section 2(1),—
- (a) in the definition of **issuing member**, replace “tax invoice, credit note, or debit note” with “taxable supply information or supply correction information”: 10
- (b) insert, in appropriate alphabetical order:
recipient details, for a taxable supply of goods or services, means—
- (a) the name of the recipient; and
- (b) one or more of the following items of information that are peculiar to the recipient: 15
- (i) an address of a physical location for the person such as a mailing or billing address;
- (ii) a telephone number;
- (iii) an email address; 20
- (iv) a trading name other than the name of the recipient;
- (v) a New Zealand business number;
- (vi) a Uniform Resource Locator address for a web site
- (c) insert, in appropriate alphabetical order:
supply correction information is defined in **section 19E** 25
- (d) in the definition of **supplier group**, replace “tax invoice, credit note, or debit note” with “taxable supply information or supply correction information”:
- (e) insert, in appropriate alphabetical order:
supply information, for a supplier and a recipient of a supply of goods or services, means information for the supply that includes— 30
- (a) the name and registration number of the supplier; and
- (b) the date of the supply; and
- (c) a description of the goods or services; and
- (d) the amount of the consideration for the supply 35
- (f) insert, in appropriate alphabetical order:

taxable supply information, for a taxable supply of goods or services, is defined in **section 19E**

- (5) **Subsection (4)** applies for taxable periods starting on or after 1 April 2023.

5B Section 3 amended (Meaning of term financial service)

- (1) In section 3(1)(k)(iii), after “money”, insert “or cryptocurrency”. 5

- (2) After section 3(1)(kaa), insert:

(kaab) the provision or transfer of ownership of cryptocurrency:

(kaac) the provision or transfer of ownership of an option over cryptocurrency:

6 Section 3A amended (Meaning of input tax)

- (1) After section 3A(2)(a), insert: 10

(ab) the supply is not of goods that—

- (i) were acquired before 1 October 1986 by the registered person or by a person who, when acquiring the goods, is an associated person of the registered person; and

- (ii) have not been owned, ~~since that acquisition~~ on or after 1 October 1986, by a person who, at the time, 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, at the time of the receipt, is not an associated person, the tax fraction of the purchase price for the supplier; and 20

- (ib) for goods received by the supplier from a person who, at the time of the receipt, is an associated person, the tax fraction of the purchase price for the most recent acquisition of the supply by a person who, at the time of the acquisition, is an associated person from a person who, at the time of the acquisition, is not an associated person; and 25

- (3) **Subsections (1) and (2)** apply for ~~taxable periods starting on or after the day on which this Act receives the Royal assent~~; a supply of secondhand goods—

- (a) made in a taxable period starting on or after the day on which the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2021 receives the Royal assent; 30

- (b) made under an agreement entered after 8 September 2021 and paid for on or after the start of the first taxable period starting on or after the day on which the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2021 receives the Royal assent. 35

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.”.	5
(4)	Repeal section 5(18).	
(5)	In section 5(23),—	10
	(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”.	15
9	New section 8AA inserted (Organisation of Act’s provisions)	
	Before section 8, insert:	
	8AA Organisation of Act’s provisions	
	<i>Definitions and interpretation</i>	
(1)	Part 1 of the Act contains definitions used in the Act.	20
	<i>Imposition of tax</i>	
(2)	In Part 2, section 8 imposes the tax—	
	(a) at a rate of 15%:	
	(b) on a supply, other than an exempt supply, of goods and services:	
	(c) in New Zealand:	25
	(d) on or after 1 October 1986:	
	(e) by a registered person:	
	(f) in a taxable activity carried on by the registered person:	
	(g) by reference to the value of the supply.	
	<i>Imposition of tax on imported goods</i>	30
(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.	

	<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):	5
	(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):	10
	<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):	15
	(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.	20
	<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>	25
(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>	30
(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>	35
(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.
<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>	
(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.
<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:
	(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”.
	<u>In section 11A(1)(c), replace “to the extent that the services are supplied by the same supplier as part of the supply of services” with “to the extent that the services are part of a supply of services, relating to the same goods.”.</u>
12	New section 12C inserted (Information for importation of goods including distantly taxable goods)
(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,—
(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:
- (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: 5
- (d) information that is acceptable to the Commissioner in substitution for information referred to in **paragraphs (a) to (c)**.
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023. 10
- 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”.
- (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)**”. 15
- (3) **Subsections (1) and (2)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 14 Section 15B amended (Taxable periods aligned with balance dates)**
- (1) After section 15B(4), insert: 20
- (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.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 25
- 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)**”.
- (2) In section 15C(3), replace “2-month period” with “2-month period, or to an equivalent period described in **section 15E(2)**”. 30
- (3) In section 15C(3B), replace “1-month period” with “1-month period, or to an equivalent period described in **section 15E(2)**”.
- (4) In section 15C(3C), replace “2-month period” with “2-month period, or to an equivalent period described in **section 15E(2)**”. 35
- (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)**
- (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
- (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—
- (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.
- (4B) After section 15D(3), insert:
- (3B) A change in taxable period continues to have effect until—
- (a) the Commissioner withdraws approval for the basis on which the person’s taxable period is set because the Commissioner considers that the person does not have good commercial reasons for the basis;
- (b) the person chooses, or is required, to have the person’s taxable period set on a different basis.
- (5) **Subsections (1), (2), (3), ~~(4)~~, and (4B)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent.
- 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
- (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

- (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. 5
- (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: 10
- (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 15
- (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— 20
- (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.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 25
- 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** 30
- (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~~ there are good commercial reasons for the registered person's chosen date. 35
- (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—

- (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
- (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. 5
- (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,—
 - (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 10
 - (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)**.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 15

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

- (1) After section 19D, insert:

Records of supplies

- ~~19E~~ Records of taxable supplies made by registered person** 20
- (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—~~
 - (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~~ 25
 - (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~~
 - (d) ~~the date on which the taxable supply information for the supply is issued, if applicable; and~~ 30
 - (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~~
 - (g) ~~the consideration for the supply; and~~ 35
 - (h) ~~the tax charged for the supply.~~

19E Definitions of types of record

- (1) **Supply correction information**, for a taxable supply for which taxable supply information containing an inaccuracy has been issued, means—
- (a) the name and the registration number of the supplier; and
 - (b) information identifying the taxable supply information; and 5
 - (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 10
 - (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. 15
- (2) **Taxable supply information**, for a taxable supply of goods or services, means— 20
- (a) for a supply that is not referred to in **paragraphs (d) to (g)** and has a value that exceeds \$1,000,—
 - (i) the name and registration number of the supplier; and
 - (ii) recipient details for the recipient; and 25
 - (iii) 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 **subparagraph (ii)**; and
 - (iv) the date of the supply; and
 - (v) a description of the goods or services; and 30
 - (vi) if the amount of tax charged is the tax fraction of the consideration for the supply, the amount of the consideration for the supply and a statement that the amount includes a charge in respect of tax; and
 - (vii) if **subparagraph (vi)** does not apply, the total amount of tax charged for the supply, the consideration for the supply excluding the tax, and the consideration for the supply including the tax; 35
 - (b) for a supply that is not referred to in **paragraphs (d) to (g)** and has a value that exceeds \$200 and does not exceed \$1,000,—

- (i) the supply information for the supply; and
- (ii) a statement that the amount of consideration includes tax charged for the supply or a statement of the amount of tax charged for the supply:

(c) for a supply that is not referred to in **paragraphs (d) to (g)** and has a value that does not exceed \$200, the supply information for the supply: 5

(d) for a supply referred to in **section 19G**, which relates to imported supplies, the information given by **section 19G(2)**:

(e) for a supply referred to in **section 19H**, which relates to secondhand goods, the information given by **section 19H(2)**: 10

(f) for a supply referred to in **section 19L**, which relates to supplies by a member of a GST group or supplier group, the information given by **section 19L(1)**:

(g) for a supply referred to in **section 19M**, which relates to supplies of distantly taxable goods, the information given by **section 19M(2)**. 15

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.~~

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

(a) ~~the GST trade name and registration number of the supplier; and~~ 20

(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~~

(e) ~~the amount of input tax calculated and claimed as a deduction for the supply; and~~ 25

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

19F **Records of taxable supplies**

A registered person who makes or receives a taxable supply of goods or services must have a record of the taxable supply information and supply correction information for the supply. 30

19G **Records of imported supplies received by registered person**

(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. 35

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

- (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: 5
- (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). 10

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)**. 15
- (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~~ 20
 - (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~~. 25
 - (g) ~~the amount of input tax calculated and claimed as a deduction for the supply; and~~
 - (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.~~ 30
- (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 35

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—

- (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
- (d) the consideration for the supply.

19J Records of supplies by members of GST group or supplier group 5

Where taxable supply information ~~or supply correction information to which **section 19L** applies~~ has been issued in respect of a supply by an active member of a GST group under **section 55(1AM)** or a supplying member of a supplier group under **section 55B**, the member issuing the taxable supply information or supply correction information must keep a record of the supply that includes— 10

- (a) the ~~GST trade name of the supplier~~ active member or supplying member; and
- (b) the address of the ~~supplier~~ active member or supplying member; and
- (c) the registration number of the ~~supplier~~ active member or supplying member, if any. 15

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)** for the supply~~ by the date given by **subsection (5)**. 20
- (2) **Subsection (1)** is overridden by ~~**subsections (4), (9), and (11)**~~ **(4), (9), and (13)** and **section 19L**. 25
- (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)** for the supply~~ within 28 days of a request for the taxable supply information. 25
 - (a) ~~on the day of the supply, if the recipient requests the taxable supply information at the time of the supply; or~~ 30
 - (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)** for the supply~~ if— 35
 - (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 5
- (b) the recipient and supplier record ~~the agreement and~~ the reasons for entering the agreement if the terms of the agreement are not part of the normal terms of business between the recipient and supplier; 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)**. 10
- (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~~ within 28 days of 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, or by an alternative date agreed by the supplier and recipient.~~ 15
- (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.~~ 20
- (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—
- (a) issue taxable supply information under **subsection (1) or (3)** for the person treated as being the supplier, as if the supplier were a registered person; and 25
- (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—~~ 30
- (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~~ 35
- (d) ~~a description of the goods or services supplied; and~~
- (e) ~~the consideration for the supply, expressed as—~~
- (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.~~
- (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— 5
- (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~~; 10
- (b) the supplier is a non-resident supplier who makes a supply of distantly taxable goods to which section 8(3)(ab) applies;
- (c) the supplier is a non-resident supplier who makes a supply of remote services to which section 8(3)(c) applies. 15
- ~~(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. 20
- (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)** for the supply~~ to a recipient of the supply if—
- (a) the supply is not of a contract of insurance; and 25
- (b) the supply of goods or services was incorrectly treated—
- (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 30
- (c) the value of the supply, in New Zealand currency as at the time of the supply, does not exceed \$1,000; and
- (d) the recipient either or both—
- (i) notifies the supplier that the recipient is a registered person; 35
- (ii) provides the supplier with the registration number or New Zealand business number of the recipient.
- (13) If the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that tax supply information be provided 40

under this section, the Commissioner may determine that, subject to any conditions that the Commissioner may consider necessary, tax supply information is not required to be provided.

19L Taxable supply information: supplies by member of GST group or supplier group

(1) Taxable supply information for a member supply made by an active member of a GST group under section 55, or by a supplying member of a supplier group under **section 55B**, ~~must include~~, in addition to the information that would be required if the supplier were not a member of a GST group or supplier group, include the name and registration number of the representative member for the GST group or of the issuing member for the supplier group.

- ~~(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~~
- ~~(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—~~
 - ~~(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 an active 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.

(3) Taxable supply information for a member supply made by a supplying member of a supplier group is treated as being provided by the ~~maker of the supply~~ issuing member for the supplier group.

19M Taxable supply information: goods included in supplies of distantly taxable goods

(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 **subsections (2) and (2B)** or alternative particulars acceptable to the Commissioner.

(2) ~~Taxable~~ The taxable supply information required by **subsection (1)** ~~must include is—~~

- ~~(a) the name and registration number of the supplier;~~

- (b) ~~the date of the supply:~~
- (a) the taxable supply information that would be required if the goods supplied were not distantly taxable goods and not imported with distantly taxable goods:
- (c) the date upon which the receipt is issued: 5
- (d) ~~the consideration for the goods, which may be expressed in the currency of the consideration received by the supplier:~~
- (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. 10
- (2B) The consideration for the goods may be expressed in the currency of the consideration received by the supplier.
- (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. 15
- 19N Supply correction information**
- (1) This section applies where a registered person has previously issued taxable supply information ~~containing an error~~ that includes an inaccuracy. 20
- (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 —~~
- (a) ~~the GST trade name and the registration number of the registered person; and~~ 25
- (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 —~~ 30
- (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~~ 35
- (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.~~
- (2) Where a registered person has provided to a person (the **recipient**) taxable supply information that includes an inaccuracy in the amount of tax charged, or the registered person has taken a tax position for a supply to the recipient in accounting for an incorrect amount of output tax on the supply, and **subsections (3), (4), and (7)** do not apply, the registered person must provide to the person supply correction information for the supply by— 5
- (a) a date agreed between the registered person and the recipient; or
- (b) within 28 days of the date of the taxable supply information, if **paragraph (a)** does not apply. 10
- (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 15
- (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, if the terms of the agreement are not part of the usual business terms between the recipient and the supplier, the terms of the agreement are recorded by the recipient and supplier. 20
- (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. 25
- (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. 30
- (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 35
- (b) the supplier’s records show that the information provided to the recipient, in the supply correction information and the taxable supply information for the supply, includes the details required under **subsection (2)** 40

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

- (1) 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,— 20
- (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.
- (2) A registered person may apply **subsection (1)** to— 25
- (a) each individual amount of tax relating to a supply; or
 - (b) a total of individual amounts of tax relating to a supply.
- (3) A registered person must consistently apply 1 of the alternative approaches given by **subsection (2)** for a taxable period in which the registered person relies on **subsection (1)**. 30

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. 35
- (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:
 - (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. 5
- (3) An approval under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

19Q References to tax invoice, credit note, and debit note

- (1) A reference in a document to a tax invoice is to be read as including a reference to taxable supply information to the extent necessary to reflect sensibly the intent of the document. 10
- (2) A reference in a document to a credit note is to be read as including a reference to supply correction information to the extent necessary to reflect sensibly the intent of the document. 15
- (3) A reference in a document to a debit note is to be read as including a reference to supply correction information to the extent necessary to reflect sensibly the intent of the document.
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023. 20

20 **New cross-heading above section 20 inserted**

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: 25
- (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—
- (a) for a taxable supply, meet the requirements of **section-49F 75**; and
 - (b) for a supply, other than a taxable supply, of secondhand goods, meet the requirements of **section-49H 24(7)**; and 30
 - (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 35
 - (ii) the registered person accounts for the output tax charged in respect of the supply; and

- (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 5
 - (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
 - (iii) the registered person pays to the supplier the full consideration for the supply. 10
- (1B) In section 20(2),—
- (a) in paragraph (a), replace “section 75” with “**section 19F**”:
 - (b) in paragraph (b), replace “section 24(7)” with “**section 19H**”.
- (2) In section 20(3)(f),— 15
- (a) replace “paragraph (a) of, or the proviso to, subsection (2)” with “**section 19F**”:
 - (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”: 20
 - (b) paragraph (b)(i), replace “a tax invoice” with “taxable supply information”.
- (4) ~~After section 20(3C)(b), insert:~~
- (e) ~~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—~~ 25
 - (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.~~ 30
- (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)”.
- (7) Replace section 20(3J)(a)(iii) with: 35
- (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
- (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. 5
- (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)**. 10
- (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 15
- (ii) is a registered person and the supply is not for use in a taxable activity of the recipient; and
- (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)**~~ **Subsection (1)** ~~apply~~ applies for taxable periods starting on or after the day on which this Act receives the Royal assent. 20
- (11) **Subsections (1B), (2), and (3)** apply for taxable periods starting on or after 1 April 2023.
- 22 Section 20H amended (Goods and services tax incurred in making financial services for raising funds)** 25
- (1) Replace section 20H(1)(d) with:
- (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~~ cryptocurrency with similar features and function: 30
- (ii) the renewal of a funding security;
- (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 35
- (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: 5
- (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)

- (1) Replace section 21B(1)(b) with: 10
 - (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—”. 15
- (3) Replace section 21B(3) with:
 - (3) A registered user meets the requirements of this subsection for a supply by—
 - (a) having a record of the details of the supply required by either of— 20
 - (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)**. 25
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.

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—”. 30
- (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~~ that the person uses in the course or furtherance of a taxable activity of developing land or dividing land into lots, the final adjustment given by subsection (4) must not exceed— 35

- (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
 - (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). 5
- (4) In section 21F(7), replace “formulas in subsections (2) and (4)” with “formula in subsection (4)”. 10

26 Section 24 repealed (Tax invoices)

(1A) In section 24(1)(b), delete “clearly marked “copy only””.

(1ABA) Replace section 24(2) with:

- (2) A registered person who has a taxable supply from another registered person must provide the supplier with a tax invoice for the supply if— 15
- (a) the recipient and supplier agree that—
 - (i) the supplier will not issue a tax invoice under subsection (1) for taxable supplies by the supplier to the recipient; and
 - (ii) the recipient will issue a tax invoice, for each taxable supply by the supplier to the recipient; and 20
 - (b) the recipient and supplier record the agreement and the reasons for entering the agreement if the terms of the agreement are not part of the normal terms of business between the recipient and supplier; 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)**. 25

(1AB) Repeal section 24(6)(a).

(1) Repeal section 24.

(1B) **Subsections (1A) and (1AB)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 30

(2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.

27 Section 24BA repealed—amended before repeal (Shared tax invoices)

(1A) In section 24BA(2), replace “each” with “the principal”.

(1AB) In section 24BA(4), definition of **principal supplier**, replace paragraph (b) with: 35

- (b) the issuing member of a GST group or supplier group for the purposes of section 55 or **55B**

- (1AC) In section 24BA(4), definition of **shared invoice**, replace paragraph (b) with:
- (b) are part of the same GST group or supplier group for the purposes of section 55 or **55B**.
- (1) Repeal section 24BA.
- (1B) **Subsections (1A), (1AB), and (1AC)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 5
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.
- 28 Section 24BAB repealed (Receipts for supplies)**
- (1) Repeal section 24BAB. 10
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.
- 29 Section 24BAC repealed (Information for importation of goods including distantly taxable goods)**
- (1) Repeal section 24BAC. 15
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.
- 30 Section 24B repealed (Records to be kept by recipient of imported goods and services)**
- (1) Repeal section 24B. 20
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.
- 31 Section 25 amended (Credit and debit notices)**
- (1) Replace the heading for section 25 with “**Adjustments for ~~errors~~ inaccuracies**”. 25
- (2) Replace section 25(1) with:
- ~~(1) This section applies where a registered person makes a return accounting for an incorrect amount of output tax payable for a taxable period.~~
- (1) This section applies where, in relation to a supply of goods and services by a registered person, the registered person issues a tax invoice, credit note, or debit note, or makes a return for a taxable period, containing an inaccuracy that is or arises from 1 or more of— 30
- (a) a cancellation of the supply;
- (b) a return, to the supplier, of all or part of the supply;
- (c) an incorrect description of the supply; 35
- (d) an incorrect amount of consideration;

- (e) an incorrect place of supply:
 - (f) an incorrect time of supply:
 - (g) an incorrect rate of tax:
 - (h) an incorrect amount of tax charged:
 - (i) an incorrect description of the supplier or recipient of the supply. 5
- (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 as a consequence of an inaccuracy referred to in **subsection (1)**”.
- (4B) In section 25(3),— 10
 - (a) in the words before paragraph (a), replace “as specified in subsection (1)(d)” with “containing an inaccuracy referred to in **subsection (1)**”:
 - (b) after paragraph (b), insert:
 - (bb) the inaccuracy does not affect the amount shown on the tax invoice as tax charged, the supplier shall provide the recipient with a credit note in the form referred to in **paragraph (a)**, or a debit note in the form referred to in **paragraph (b)**, containing particulars of the inaccuracy and a correction of the inaccuracy: 15
 - (c) in paragraph (c), after “the excess”, insert “shown in a tax invoice of the tax charged or for the amount of the excess of the actual tax charged over the amount of tax shown in the tax invoice”: 20
 - (d) in paragraph (d), delete the words after “a copy”:
 - (e) replace paragraph (e) with:
 - (e) a supplier shall not be required to provide a recipient with a credit note under **paragraph (a)** where the amount of the excess referred to in that paragraph arises as a result of the recipient’s accepting a discount offered by the supplier— 25
 - (i) for prompt payment, and the terms of the prompt payment discount offer are stated in the tax invoice; or
 - (ii) by agreement, and, if the terms of the agreement are not part of the usual business terms between the recipient and the supplier, the terms of the agreement are recorded by the recipient and supplier: 30
- (5) Repeal section 25(3), (3A), (3B), and (3C).
- (6) Replace section 25(4) and (5) with: 35
- (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~~ a tax invoice and is then issued with ~~supply correction information~~ a credit note or debit note showing, or otherwise knows, that the ~~taxable supply information~~

- credit note or debit note includes an amount of output tax on the supply exceeding the correct amount, the amount of the excess tax is—
- (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 5
 - (b) attributed to the taxable period in which the ~~supply correction information~~ credit note or debit note 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~~ a tax invoice and is then issued with ~~supply correction information~~ a credit note or debit note showing that the correct amount of output tax on the supply exceeds the amount included in the ~~taxable supply information~~ tax invoice, 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 correction information~~ credit note or debit note is issued, to the extent that the output tax properly charged on the supply exceeds the input tax deducted relating to the supply. 10 15
- (6B) In section 25(4),—**
- (a) in the words before **paragraph (a)**,—
 - (i) replace “a tax invoice” with “taxable supply information”; 20
 - (ii) replace “a credit note or debit note” with “supply correction information”;
 - (iii) replace “the credit note or debit note” with “the supply correction information”;
 - (b) in **paragraph (b)**, replace “credit note or debit note” with “supply correction information”. 25
- (6C) In section 25(5),—**
- (a) replace “a tax invoice” with “taxable supply information”;
 - (b) replace “a credit note or debit note” with “supply correction information”; 30
 - (c) replace “the tax invoice” with “the taxable supply information”;
 - (d) replace “the credit note or debit note” with “the supply correction information”.
- (7) Repeal section 25(6) and (7).
- (8) **Subsections (1), (2), ~~(3)~~, (4), (4B), and ~~(5)~~, (6) and (7)** apply for taxable periods starting on or after the day on which this Act receives the Royal assent. 35
- (9) **Subsections (3), (5), (6B), (6C), and (7)** apply for taxable periods starting on or after 1 April 2023.

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~~ 1 April 2023. 5

33 Section 25AB amended (Consequences of change in contract for secondhand goods)

(1) ~~In section 25AB(1)(a), replace “section 25(1)(a) to (e)” with “section 25AA(1)(a)”.~~ 10

(1) Replace section 25AB(1)(a) with:

(a) the supply is affected by 1 or more of—

(i) a cancellation of the supply;

(ii) a return, to the supplier, of all or part of the supply;

(iii) an incorrect description of the supply; 15

(iv) an incorrect rate of tax;

(v) an incorrect amount of tax charged;

(vi) a change to the previously agreed consideration for the supply;
and

(2) In section 25AB(1)(d), replace “a tax invoice or credit note” with “taxable supply information or supply correction information”. 20

(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~~ 1 April 2023. 25

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~~ 1 April 2023. 30

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. 35

- (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”.
- (4) In section 43(5), replace “to the registered person” with “to the registered person or liable person”. 5
- (5) In section 43(5B), replace “the registered person” with “the registered person or liable person” in each place.
- (6) In section 43(6),—
- (a) replace “any registered person” with “a registered person or liable person”: 10
- (b) replace “that registered person” with “the registered person or liable person”.
- (7) In section 43(7), replace “the registered person” with “the person”.
- (8) In section 43(9), replace “the registered person” with “the registered person or liable person”. 15
- 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”. 20
- ~~(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~~ 1 April 2023.
- 37 Section 55 amended (Group of companies)**
- (1) Replace the heading for section 55 with “**GST groups**”. 25
- (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.
- (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— 30
- (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
- (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 35
- 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~~ tax invoices, credit notes, or debit notes, keeping records, and making payments required by the Act; and
- (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~~ tax invoices, credit notes, or debit notes; and 5
- (b) as the GST group, sharing the responsibilities and liabilities under the Act of the single company; and 10
- (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— 15
- (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— 20
- (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— 25
- (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. 30
- (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. 35
- (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 per- 40

- centage 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—
- (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.
- (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.
- (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.
- (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
 - (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~~ tax invoice, credit note, or debit note, for a taxable supply that would in the absence of this section be made by a member (the **active member**), be issued—
- (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.
- (1AN) The representative member, and an issuing member or active member, of a GST group must meet the requirements of ~~sections 19J and 19L~~ **24, 25, and 75** for ~~taxable supply information~~ tax invoices, credit notes, debit notes, and other records relating to supplies.

- (1AO) A person who is, or has been, a member of the GST group has the following responsibilities and liabilities:
- (a) joint and several liability with the other members of the GST group under **subsections (1AP) and (1AQ)** for all tax payable, and not paid, 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 5
 - (b) the responsibilities and liabilities of a member of the GST group under the provisions of—
 - (i) sections ~~49K to 49N~~**24 and 25**; and
 - (ii) section 75, for the activities of the member while the member is part of the GST group; and 10
 - (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~~ is relieved from liability for tax payable by the GST group for all or part of a taxable period if— 15
- (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: 20
 - (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 25
 - (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. 30
- (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)**. 35
- (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:”:
 - (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.
- (5B) In section 55(1AB)(a)(iii) and (iv), replace “tax invoices, credit notes, or debit notes” with “taxable supply information or supply correction information” in each place.**
- (5C) In section 55(1AM), replace “tax invoice, credit note, or debit note” with “taxable supply information or supply correction information”.**
- (5D) In section 55(1AN),—**
- (a) replace “24, 25, and 75” with “19J and 19L”:**
 - (b) replace “tax invoices, credit notes, debit notes, and other records relating to supplies” with “taxable supply information and supply correction information”.**
- (6) In section 55(1B),—
- (a) replace “group of companies” with “GST group” in each place:
 - (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”.
- (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:
- (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—
- (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.
- (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.”
- (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.
- (16B) **Subsection (2)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent and **section 55(1AO), (1AP), and (1AQ)**, as inserted by **subsection (2)**, additionally apply to transactions entered after 8 September 2021 and completed on or after the day on which this Act receives the Royal assent.
- (17) **Subsections (5B), (5C), and (5D)** apply for taxable periods starting on or after 1 April 2023.
- 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~~ the same GST group as another

- member of the supplier 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 section 24BA(3) tax invoices, credit notes, and debit notes for each supply of goods and services made, other than under section 5(2), by a member of the supplier group (the **supplying member**). 5
- (2) The requirements of this subsection are met if—
- (a) the members of the supplier group agree that,—
- (i) the issuing member must issue ~~taxable supply information tax~~ invoices, credit notes, and debit notes for each supply by a supplying member; and 10
- (ii) each member of the supplier group other than the issuing member must not issue ~~taxable supply information tax~~ invoices, credit notes, and debit notes for a supply by the member; and
- (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~~ 15
- (b) the agreement includes the ~~GST trade~~ name, address, and registration number of each member of the supplier group; and
- (c) if the terms of the agreement differ from normal commercial terms agreed earlier between the members of the supplier group, each member of the supplier group records ~~the agreement and~~ the circumstances taken into account by the member in entering the agreement; and 20
- (d) The Commissioner has not invalidated the agreement because the Commissioner considers that the members of the supplier group have failed 25 to satisfy the requirements of the agreement and this section.
- (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. 30
- (1B) In **section 55B(1)**, replace “section 24BA(3) tax invoices, credit notes, and debit notes” with “**section 19J** the taxable supply information and supply correction information”. 35
- (1C) In section **55B(2)(a)(i) and (ii)**, replace “tax invoices, credit notes, and debit notes” with “taxable supply information and supply correction information” in each place.
- (2) **Subsection (1)** applies for taxable periods starting on or after the day on 40 which this Act receives the Royal assent.

- (3) **Subsections (1B) and (1C)** apply for taxable periods starting on or after 1 April 2023.
- 39 Section 60 amended (Agents and auctioneers)**
- (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: 5
- (b) replace “that tax invoice or credit note or debit note” with “the taxable supply information or supply correction information”.
- (2) In section 60(2),—
- (a) replace “with a tax invoice” with “with taxable supply information”: 10
- (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”.
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023. 15
- 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”.
- (2) In section 75(2)(a), replace “tax invoices, credit notes, and debit notes” with “taxable supply information and supply correction information”. 20
- (3) **Subsections (1) and (2)** apply for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.
- 41 Section 75B amended (General rules for giving information or communicating matters)** 25
- (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~~ 1 April 2023.
- 42 Section 78AA amended (Exceptions to effect of increase of tax)** 30
- (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”:
- (b) paragraph (a), replace “tax invoice” with “taxable supply information”: 35

- (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— 5
- (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
- (ii) goods and services tax is charged on the supply under the replacement taxable supply information at the original rate: 10
- (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.
- (4) **Subsections (1), (2), and (3)** apply for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023. 15
- 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:
- (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 20
- (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 25
- (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.
- (2) **Subsection (1)** applies for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023. 30
- 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**”. 35
- (2) In section 78BA(1), replace—
- (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”:
- (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”:
- (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)–(3)** apply for taxable periods starting on or after ~~the day on which this Act receives the Royal assent~~ 1 April 2023.
- 45 Section 78G repealed (Railways vesting: zero-rating and timing of tax calculations and documents)**
- (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

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”.
- 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 section 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.~~

48 Section CB 6A replaced (Disposal within 10 years: Bright-line test for residential land)

(1) Replace section CB 6A with:

CB 6A Disposal within 10 years: Bright-line test for residential land

When this section applies: relationship with subject matter

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(1A) This section applies if none of sections CB 6 to CB 12 apply.

Some definitions

(1) In this section,—

(a) **10-year test land** means residential land to the extent to which, using a land area test, it is not new build land, and the land’s bright-line disposal date is within 10 years of the earliest of any of the applicable dates (**bright-line acquisition dates**) described in **subsections (3) to (7D) and (16):**

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(b) **5-year test land** means residential land to the extent to which, using a land area test, it is new build land, and,—

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(i) the person acquires it no later than 12 months after the land becoming **new build land**; and

(ii) the land’s bright-line disposal date is within 5 years of the earliest of any of the applicable dates (**bright-line acquisition dates**) described in **subsections (3) to (7D) and (16); and**

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(iii) at the time of its disposal, it meets the requirements of **paragraph (a), (b), (d), (e), or (f)** of the definition of **new build land** or would have met 1 of those requirements but for the destruction of the relevant place by natural disaster or fire.

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Income

(2) Subject to quantification under **subsection (8)**, an amount that a person derives from disposing of residential land is income of the person to the extent to which the amount is for residential land that is—

(a) 10-year test land;

(b) 5-year test land.

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Exception: death

(2B) This section does not apply to an amount that an executor or administrator described in section FC 1(1)(a) (Disposals to which this subpart applies), or a beneficiary described in section FC 1(1)(b), derives from disposing of residential land that was transferred to them on the death of a person.

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Disposal

(3) In the case where none of **subsections (4) to (7D)** are applicable, the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is—

- (a) the date on which the instrument to transfer the land to the person was registered—
- (i) under the Land Transfer Act 2017; or
 - (ii) under foreign laws of a similar nature to the Land Transfer Act 2017, if the land is outside New Zealand; or
- (b) the latest date on which the person acquires the estate or interest in the land, if an instrument to transfer the land to the person is not registered on or before the bright-line disposal date.
- Change of trustees: disposal*
- (3B) For the purposes of **subsection (3)**, and despite **subsection (3)(a)**, in the case of a transfer of land to a trustee of a trust from a trustee of the trust, the date on which the relevant instrument was registered is treated as—
- (a) the earliest date on which an instrument to transfer the land to a trustee of the trust was registered under the relevant law referred to in the subsection (the **first date**), if there has been no intervening transfer to a person who is not a trustee; or
 - (b) the first date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.
- Subdivision*
- (4) In the case where the residential land results from the person subdividing other land (the **undivided land**), the bright-line acquisition date for the purposes of the definitions of **10-year test land** and **5-year test land** is—
- (a) the date on which the instrument to transfer the undivided land to the person was registered—
 - (i) under the Land Transfer Act 2017; or
 - (ii) under foreign laws of a similar nature to the Land Transfer Act 2017, if the land is outside New Zealand; or
 - (b) the latest date on which the person acquires the estate or interest in the undivided land, if the land is not registered as described in **paragraph (a)** at the bright-line date.
- Change of trustees: subdivision*
- (4B) For the purposes of **subsection (4)**, and despite **subsection (4)(a)**, in the case of a transfer of land to a trustee of a trust from a trustee of the trust, the date on which the relevant instrument was registered is treated as—
- (a) the earliest date on which an instrument to transfer the undivided land to a trustee of the trust was registered under the relevant law referred to in the subsection (the **first undivided date**), if there has been no intervening transfer to a person who is not a trustee; or
 - (b) the first undivided date following the intervening transfer, if there has been an intervening transfer to a person who is not a trustee.

Leases with perpetual right of renewal

(5) In the case where the residential land is a freehold estate in residential land, acquired as the owner of a leasehold estate with a perpetual right of renewal, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is the date the leasehold estate was granted.

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Joint tenancy converted to tenancy in common

(5B) In the case and to the extent to which the residential land is held as a tenant in common in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a joint tenant nominally in the same share equal to the same joint owners, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is the date the joint tenancy was acquired.

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Tenancy in common converted to joint tenancy

(5C) In the case and to the extent to which the residential land is held as a joint tenant nominally in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a tenant in common in the same share equal to the same joint owners, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is the date the tenancy in common in equal shares was acquired.

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Estate or interest acquired upon completion of land development or subdivision

(6) In the case where the residential land is acquired as the result of the completion of a land development or subdivision, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is the date the person enters into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

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Residential land transferred for certain family trusts

(7) For residential land transferred to trustees or settlors of certain family trusts, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is given by **section CB 6AC.**

Residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts

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(7B) For residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is given by **section CB 6AD.**

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Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi

(7C) For certain transfers of residential land included in settlement of claim under the Treaty of Waitangi, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is given by **section CB 6AE.**

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	<u><i>Certain transfers of residential land between look-through company, or partnership, and members</i></u>	
(7D)	<u>For certain transfers of residential land involving look-through companies and partnerships, the bright-line acquisition date for the purposes of the definitions of 10-year test land and 5-year test land is given by section CB 6AF.</u>	5
	<u><i>Quantification</i></u>	
(8)	<u>Despite subsection (1), the amount of income that a person (person A) derives for disposing of 10-year test land or 5-year test land, as the case may be, is reduced by the amount calculated using the following formula:</u>	10
	<u>$\frac{\text{unadjusted income} \times (\text{exempted non-predominant main home days} \times \text{main home percentage} + \text{exempted predominant main home days})}{\text{total days}}$</u>	
	<u><i>Definition of items in formula</i></u>	
(9)	<u>The items in the formula are defined in subsections (10) to (11D), and subsection (11E) provides an exception.</u>	15
	<u><i>Unadjusted income</i></u>	
(10)	<u>Unadjusted income is person A's amount of income for disposing of the 10-year test land or 5-year test land under subsection (2), ignoring this formula.</u>	
	<u><i>Exempted non-predominant main home days</i></u>	
(11)	<u>Exempted non-predominant main home days is the total number of—</u>	20
	<u>(a) days within the land's bright-line period that the land has been used for a dwelling that was the main home for 1 or more main home persons;</u>	
	<u>(b) days in a period that is equal to or shorter than the exempt main home period limit, if, for the period, the land has not been used for a dwelling that was the main home for 1 or more main home persons, and—</u>	
	<u>(i) the start of the period adjoins either a day described in paragraph (a) or the start of the land's bright-line period; and</u>	25
	<u>(ii) the end of the period adjoins either a day described in paragraph (a) or the end of the land's bright-line period; but</u>	
	<u>(c) does not include any exempted predominant main home days.</u>	30
	<u><i>Main home percentage</i></u>	
(11B)	<u>Main home percentage is the percentage area of the land that, during the exempted non-predominant main home days has been used as a main home.</u>	
	<u><i>Exempted predominant main home days</i></u>	
(11C)	<u>Exempted predominant main home days is the total number of exempted predominant main home days under section CB 16A.</u>	35
	<u><i>Total days</i></u>	
(11D)	<u>Total days is the total number of days in the land's bright-line period.</u>	

Exception to quantification

(11E) **Subsection (8)** does not apply, if person A is described in **section 16A(3)**.

Relationship with subject matter

(15) For the purposes of calculating a person's net income in relation to the disposal of residential land for which they derive an amount of income under this section, **sections FC 9B and FC 9C** (which relate to residential land) provide disposal and acquisition amounts for transactions that **subsections (7) to (7D)** of this section apply to.

Retaining some land or acquiring some land

(16) For the purposes of this section and **sections CB 6AC to CB 6AF**, if a person disposes of some land (**disposed land**) in the form of an estate, interest, or option in relation to an estate or interest, in land (the **underlying land**), and in relation to that disposed land, either the person retains or acquires an estate, interest, or option to acquire an estate or interest (**retained land**), that is, or is in, the underlying land in whole or in part, then—

- (a) the retained land is treated as not being acquired when the disposed land is disposed of, and as not having the bright-line acquisition date of the disposed land; and
- (b) an instrument to transfer land that relates to disposed land and to other land is ignored to the extent to which it relates to the other land, including underlying land and retained land; and
- (c) the other land, including underlying land and retained land, has the date of acquisition it would have if the disposal of the disposed land is ignored.

Capacity

(17) For the purposes of this section and **sections CB 6AC to CB 6AF**, the transfer of land from a person in a capacity, other than as trustee, to their personal capacity is ignored, and, in any case other than as trustee, they are treated as holding the land in their personal capacity.

Defined in this Act: bright-line acquisition date, bright-line date, bright-line period, dispose, estate, exempt main home period limit, exempted predominant main home day, interest, land, main home, mortgage, new build land, person, residential land, trustee, year

CB 6AC Residential land transferred for certain family trusts

When this section applies: trustees

(1) This section applies to a transfer by a person (a **transferor**) of residential land to the trustee of a trust (a **recipient (person A)**), if the transferor and all other transferors of the land are all beneficiaries of the trust, all principal settlors of the trust are associated under **subsection (3)**, and each beneficiary is also 1 or more of the following:

- (a) a principal settlor of the trust:

- (b) associated under **subsection (3)** with another beneficiary of the trust that does meet the principal settlor requirements for the trust:
- (c) a company in which a 50% or more voting interest, or a 50% or more market value interest if a market value circumstance exists, is owned by a beneficiary of the trust that is associated under **subsection (3)** with a beneficiary that does meet the principal settlor requirements for the trust: 5
- (d) a trustee of another trust, in the case of that other trust and the recipient trust both having at least 1 person who is a beneficiary that is associated under **subsection (3)** with a beneficiary of the trust that does meet the principal settlor requirements for the trust: 10
- (e) a charity registered under the Charities Act 2005.
- When this section applies: settlors*
- (2) This section applies to a transfer by a person (a **transferor**) of residential land to a settlor of the land for a trust (a **recipient (person A)**), if the transferor and all other transferors of the land are all trustees or beneficiaries of the trust, all principal settlors of the trust are associated under **subsection (3)**, and each trustee or beneficiary is also 1 or more of the following: 15
- (a) a principal settlor of the trust:
- (b) associated under **subsection (3)** with another beneficiary of the trust that does meet the principal settlor requirements for the trust: 20
- (c) a company in which a 50% or more voting interest, or a 50% or more market value interest if a market value circumstance exists, is owned by a beneficiary of the trust that is associated under **subsection (3)** with a beneficiary that does meet the principal settlor requirements for the trust: 25
- (d) a trustee of another trust, in the case of that other trust and the recipient trust both having at least 1 person who is a beneficiary that is associated under **subsection (3)** with a beneficiary of the trust that does meet the principal settlor requirements for the trust: 30
- (e) a charity registered under the Charities Act 2005.
- Associated relatives to the 4th degree*
- (3) Two persons are associated in a way that meets the requirements of this subsection if 1 or more of the following applies:
- (a) they are within 4 degrees of blood relationship: 35
- (b) they are married, in a civil union, or in a de facto relationship:
- (c) 1 person is within 4 degrees of blood relationship to the other person's spouse, civil union partner, or de facto partner.

*Sections **CB 6A and CZ 39**: bright-line acquisition date*

- (4) For the purposes of sections **CB 6A and CZ 39** (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018), the recipient (person A) of the transfer of the residential land has the bright-line acquisition date that the transferor had, if the transfer is made on or after 1 April 2022.

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Defined in this Act: beneficiary, bright-line acquisition date, cost, disallowed residential property, dispose, principal settlor, residential land, tax charity, trust, trustee

CB 6AD Residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts

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When this section applies: trustees

- (1) This section applies to a transfer by a person (a **transferor**) of residential land that is subject to Te Ture Whenua Maori Act 1993 to a trustee of a trust that is a Maori authority (a **recipient (person A)**), or is eligible to elect to be a Maori authority, under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?) (also **recipient (person A)**), if the transferor and all other transferors of the land are all beneficiaries of the trust, and all beneficiaries of the trust are—

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(a) members of the same iwi or hapu:

(b) descendants of the same tipuna.

When this section applies: settlors

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- (2) This section applies to a transfer by a person (a **transferor**) of residential land that is subject to Te Ture Whenua Maori Act 1993 to a settlor of the land for a trust that is a Maori authority (also **recipient (person A)**), or is eligible to elect to be a Maori authority, under section HF 2(3)(e)(i) (also **recipient (person A)**), if the transferor and all other transferors of the land are all trustees or beneficiaries of the trust, and all beneficiaries of the trust are—

25

(a) members of the same iwi or hapu:

(b) descendants of the same tipuna.

*Sections **CB 6A and CZ 39**: bright-line acquisition date*

- (3) For the purposes of sections **CB 6A and CZ 39** (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018), the recipient (person A) of the transfer of the residential land has the bright-line acquisition date that the transferor had, if the transfer is made on or after 1 April 2022.

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Defined in this Act: beneficiary, bright-line acquisition date, disallowed residential property, dispose, Maori authority, residential land, trust, trustee

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CB 6AE Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi

What this section applies to

- (1) This section applies to a transfer by a person (a **transferor**) of residential land that is subject to Te Ture Whenua Maori Act 1993 and is part of the settlement of a claim under the Treaty of Waitangi to a trustee of a trust that is a Maori authority (a **recipient (person A)**), or eligible to elect to be a Maori authority, under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?) (also **recipient (person A)**).

*Sections **CB 6A and CZ 39**: bright-line acquisition date*

- (2) For the purposes of sections **CB 6A and CZ 39** (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018), the recipient (person A) of the transfer of the residential land has the bright-line acquisition date that the transferor had, if the transfer is made on or after 1 April 2022.

Defined in this Act: bright-line acquisition date, dispose, disallowed residential property, Maori authority, residential land, trust, trustee

CB 6AF Certain transfers of residential land between look-through company, or partnership, and members

What this section applies to

- (1) This section applies to a transfer by a person (the **transferor**) of residential land to a recipient (**person A**), if—
- (a) the transfer is made by or to—
- (i) the owners of the look-through company that receives or makes the transfer; or
- (ii) the members of the partnership that receives or makes the transfer; and
- (b) for each owner of the look-through company, the proportion held by the owner of the total shareholding in the look-through company is the same as—
- (i) the proportion of the total ownership interests in the land that the owner holds, as a transferor or recipient in the transfer; and
- (ii) the proportion of the total consideration for the transfer of the land that the owner provides as a recipient, or receives as a transferor, in the transfer; and
- (c) for each member of the partnership, the proportion held by the member of the total partnership interests in the partnership is the same as—
- (i) the proportion of the total ownership interests in the land that the member holds, as a transferor or recipient in the transfer; and

- (ii) the proportion of the total consideration for the transfer of the land that the member provides as a recipient, or receives as a transferor, in the transfer.

*Sections **CB 6A and CZ 39**: bright-line acquisition date*

- (2) For the purposes of sections **CB 6A and CZ 39** (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018), the recipient (person A) of the transfer of the residential land has the bright-line acquisition date that the transferor had, if the transfer is made on or after 1 April 2022.

Defined in this Act: bright-line acquisition date, close company, disallowed residential property, look-through company, partner, partnership, residential land

- (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. Further, **subsection (1)** does not apply to—

- (a) 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;

- (b) 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.

49 Section CB 16A amended (Main home exclusion for disposal within 10 years)

- (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:~~

- (e) ~~the beginning and the end of the continuous period adjoins either:~~
 - (i) ~~a period within the bright line period that meets the criteria; or~~
 - (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~~

- (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.~~

49 Section CB 16A amended (Main home exclusion for disposal within 10 years) 10

- (1) Replace section CB 16A(1) and (2) with:

Main home exclusion

- (1) **Section CB 6A** does not apply to a person (**person A**) who disposes of residential land if, for the residential land (an **exempt main home**), all the days in the relevant bright-line period are exempted predominant main home days. 15

Key term: exempted predominant main home day

- (1B) **Exempted predominant main home day** means, for person A and residential land,—

- (a) a day within the land’s bright-line period that the land has been used predominantly for a dwelling that was the main home for 1 or more main home persons: 20

- (b) a day in a period that is equal to or shorter than the exempt main home period limit, if, for the period, the land has not been used predominantly for a dwelling that was the main home for 1 or more main home persons, but— 25

- (i) the start of the period adjoins either a day described in **paragraph (a)** or the start of the land’s bright-line period; and

- (ii) the end of the period adjoins either a day described in **paragraph (a)** or the end of the land’s bright-line period. 30

Key term: exempt main home period limit

- (1C) **Exempt main home period limit** means 365 days or, in the case of a period during which person A constructs a dwelling used as a main home for 1 or more main home persons, the length of that period, if it is reasonable.

Key term: main home person

- (1D) **Main home person** means, for person A, 1 or more of the following people:

- (a) person A;

- (b) a beneficiary of a trust, if person A is a trustee of the trust that owns the residential land disposed of, and—

- (i) a principal settlor of the trust does not have a main home; or
(ii) if a principal settlor of the trust does have a main home, it is that main home that is being disposed of.
- (2) In section CB 16A(3)(b), replace “residential land described in subsection (2)” with “exempt main homes described in **subsection (1)**”. 5
- (3) In section CB 16A(4), replace “residential land described in subsection (2)” with “exempt main homes described in **subsection (1)**”.
- (4) In section CB 16A(5)(a), replace “residential land described in subsection (2)” with “an exempt main home described in **subsection (1)**”.
- (5) Repeal section CB 16A(6). 10
- (6) In section CB 16A, list of defined terms, insert “exempt main home”, “exempt main home period limit”, “exempted predominant main home day”, and “main home person”.
- (7) **Subsections (1), (2), (3), (4), (5), and (6)** 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), (3), (4), (5), and (6)** 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. Further, **subsections (1), (2), (3), (4), (5), and (6)** do not apply to— 15
- (a) 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: 25
- (b) 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. 30
- 49B Section CB 36 amended (Disposal of emissions units)**
- (1) After section CB 36(8C), insert:
- Cancellation of unit*
- (8D) If a person cancels an emissions unit, the person is treated as selling the unit for an amount of zero. 35
- (2) **Subsection (1)** applies for a person and an income year beginning on or after 1 January 2009, except for an income year for which the person chooses to rely on a tax position taken before the date on which this Act receives the Royal assent.

50 Section CD 5 amended (What is a transfer of company value?)

In section CD 5(2)(a), replace “forgiven” with “remitted”.

50B Section CD 38 amended (General calculation rule for transfers of company value)

(1) Replace section CD 38(2)(b)(i) with:

- (i) is the market value of the money or money’s worth, if any, that the person provides to the company as consideration for the transfer. To the extent to which the person provides a loan that is cross-border related borrowing under section GC 6(3B) (Purpose and application of rules and nature of arrangements), the market value of the money or money’s worth that the person provides is determined using the interest rate 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 18 (which relate to transfer pricing arrangements), if any; and

(2) **Subsection (1)** applies for income years starting on or after 1 April 2022.

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—~~
- (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~~
- (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).~~

(2) ~~**Subsection (1)** applies for income years starting on or after 1 April 2022.~~

52 Section CD 43 amended (Available subscribed capital (ASC) amount)

(1) In section CD 43(6B)(a), replace “forgiven” with “remitted”.

(2) Repeal section CD 43(6B)(b).

(3) In the heading to section CD 43(6D), replace “*forgiven*” with “*remitted*”.

53 Section CD 44 amended (Available capital distribution amount)

(1) After section CD 44(7), insert:

Disposal of shares received in a share-for-share exchange

(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. 5

(2) In the heading to section CD 44(8B), replace “*forgiven*” with “*remitted*”. 10

(3) In section CD 44(8B), replace “*forgiven*” with “*remitted*”. 10

54 Section CW 10 amended (Dividend within New Zealand wholly-owned group)

(1) In section CW 10(1)(e), replace “subsections (3) to (6)” with “subsections (5) and (6)”. 15

(2) Repeal section CW 10(3). 15

(3) **Subsections (1) and (2)** apply for the 2022–23 and later income years.

54B New section CW 10B inserted (Dividends derived by council-controlled organisation holding companies)

(1) After section CW 10, insert:

CW 10B Dividends derived by council-controlled organisation holding companies 20

A dividend derived by a council-controlled organisation (the **recipient**) from another person (the **payer**) is exempt income of the recipient if—

(a) the payer is—

(i) a council-controlled organisation; or 25

(ii) a port company, a subsidiary of a port company, or an energy company that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002; and

(b) at the time the dividend is derived, 100% of the voting interests in the payer are held by— 30

(i) 2 or more local authorities; or

(ii) a combination of 1 or more Ministers of the Crown, on behalf of the Crown, and 1 or more local authorities; and

(c) at the time the dividend is derived, a local authority holds 100% of the voting interests in the recipient. 35

Defined in this Act: council-controlled organisation, dividend, exempt income, local authority, voting interest

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

55 Section CW 39 amended (Local authorities)

- (1) Replace section CW 39(4), other than the heading, with:
- (4) Subsection (2) does not apply to an amount of income that—
- (a) is derived by a local authority from—
 - (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 5
 - (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 10
 - (b) is neither rates nor a dividend ~~that is exempt income of the local authority under section CW 10.~~ 15
- (2) **Subsection (1)** applies for the 2022–23 and later income years.

55B Section CW 47 amended (TAB NZ and racing clubs)

After section CW 47(1)(d), insert:

- (e) the Racing Integrity Board:
- (f) Racing New Zealand. 20

55C New section CW 62C inserted (Income from foreign-currency loans used for disallowed residential property)

After section CW 62B, insert:

CW 62C Income from foreign-currency loans used for disallowed residential property 25

An amount of income of a person under section CC 3(1) (Financial arrangements) is exempt income if the person—

- (a) derives the income from a financial arrangement that is a loan of foreign currency to the person; and
- (b) uses the loan proceeds for disallowed residential property; and 30
- (c) is denied by **section DH 8(1)** (Deduction not allowed) a deduction for interest incurred by the person under the financial arrangement.

Defined in this Act: disallowed residential property, exempt income, financial arrangement, interest, income

56 Section CX 47 amended (Government grants to businesses) 35

- (1) After section CX 47(4), insert:

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.

56B **Section CZ 39 amended (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)** 5

- (1) In section CZ 39(2)(a), replace “the date on which” with “the date (the **bright-line acquisition date**) on which”.
- (2) In section CZ 39(2)(b), replace “their date of acquisition” with “their date of acquisition (the **bright-line acquisition date**)”.
- (3) In section CZ 39(3)(a), replace “the date on which” with “the date (the **bright-line acquisition date**) on which”. 10
- (4) In section CZ 39(3)(b), replace “their date of acquisition” with “their date of acquisition (the **bright-line acquisition date**)”.
- (5) In section CZ 39(4), replace “grant of the leasehold estate” with “the date of the grant of the leasehold estate (the **bright-line acquisition date**)”. 15
- (6) In section CZ 39(5), replace “the person entering into the agreement” with “the date of the person entering into the agreement (the **bright-line acquisition date**)”.
- (7) After section CZ 39(5), insert:

Joint tenancy converted to tenancy in common 20

- (5B) Despite **subsection (2)**, for residential land transferred in the case and to the extent to which the residential land is held as a tenant in common in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a joint tenant nominally in the same share equal to the same joint owners, an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the date (the **bright-line acquisition date**) that the joint tenancy was acquired. 25

Tenancy in common converted to joint tenancy

- (5C) Despite **subsection (2)**, for residential land transferred in the case and to the extent to which the residential land is held as a joint tenant nominally in a share equal to all joint owners, acquired subsequent to, and to the extent to which it was previously being held as a tenant in common in the same share equal to the same joint owners, an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the date (the **bright-line acquisition date**) that the tenancy in common was acquired. 30 35

- (8) After section CZ 39(6), insert:

Residential land transferred for certain family trusts

(6B) Despite **subsections (2) to (5C)**, for residential land transferred, as described in **section CB 6AC** (Residential land transferred for certain family trusts), to trustees or settlors of certain family trusts, an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by **section CB 6AC**.

5

Residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts

(6C) Despite **subsections (2) to (5C)**, for residential land transferred, as described in **section CB 6AD** (Residential land transferred to Maori authorities, or similar eligible persons, for certain family trusts), an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by **section CB 6AD**.

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Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi

(6D) Despite **subsections (2) to (5C)**, for certain transfers of residential land, as described in **section CB 6AE** (Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi), an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by **section CB 6AE**.

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Certain transfers of residential land between look-through company, or partnership, and members

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(6E) Despite **subsections (2) to (5C)**, for certain transfers of residential land, as described in **section CB 6AF** (Certain transfers of residential land between look-through company, or partnership, and members), an amount that a person derives from disposing of the residential land is income of the person if the bright-line disposal date for the residential land is within 5 years of the bright-line acquisition date given by **section CB 6AF**.

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(9) After section CZ 39(9), insert:

Retaining some land or acquiring some land

(10) For the purposes of this section and **sections CB 6AC to CB 6AF**, if a person disposes of some land (**disposed land**) in the form of an estate, interest, or option in relation to an estate or interest, in land (the **underlying land**), and in relation to that disposed land, either the person retains or acquires an estate, interest, or option to acquire an estate or interest (**retained land**), that is, or is in, the underlying land in whole or in part, then—

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- (a) the retained land is treated as not being acquired when the disposed land is disposed of, and as not having the bright-line acquisition date of the disposed land; and
- (b) an instrument to transfer land that relates to disposed land and to other land is ignored to the extent to which it relates to the other land, including underlying land and retained land; and 5
- (c) the other land, including underlying land and retained land, has the date of acquisition it would have if the disposal of the disposed land is ignored.
- Capacity* 10
- (11) For the purposes of this section and **sections CB 6AC to CB 6AF**, the transfer of land from a person in a capacity, other than as trustee, to their personal capacity is ignored and, in any case other than as trustee, they are treated as holding the land in their personal capacity.
- (10) In section CZ 39, list of defined terms, insert “bright-line acquisition date”. 15
- 57 Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)**
- (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,— 20
- (a) insert “group of persons”;
- (b) delete “settlement”.
- (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 25
- 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.
- 57B Section DB 7 amended (Interest: most companies need no nexus with income)** 30
- After section DB 7(6B), insert:
- Relationship with subpart DH*
- (6C) **Subpart DH** (Interest incurred in relation to certain land) overrides this section for interest to which that subpart relates.
- 58 Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)** 35
- (1) ~~After section DB 8(2), insert:~~

	<i>Exclusion: borrowing by local authorities</i>	
(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.	5
(1B)	After section DB 8(6B), insert:	
	<i>Relationship with subpart DH</i>	
(6C)	Subpart DH (Interest incurred in relation to certain land) overrides this section for interest to which that subpart relates.	
(2)	In section DB 8, list of defined terms, insert “local authority”.	10
(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	15
	<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.	20
	<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.	25
	Defined in this Act: council controlled organisation, deduction, general permission, interest, local authority	
(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:	30
	<i>Modification: local authorities</i>	
(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”.	35
(3)	Subsection (1) applies for the 2022–23 and later income years.	

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”.	
61B	<u>Section DB 23C amended (Revenue account property: cost of some residential land reduced)</u>	5
(1)	<u>In section DB 23C(1), replace “section CB 6A(6)” with “section CB 6A(8)”.</u>	
(2)	<u>Replace section DB 23C(2) to (6) with:</u>	
	<u><i>Excluded adjustment amount formula</i></u>	
(2)	<u>The excluded adjustment amount for the purposes of subsection (1) is calculated using the following formula:</u>	10
	<u>cost × (exempted non-predominant main home days × main home percentage + exempted predominant main home days) / total days.</u>	
	<u><i>Definition of items in formula</i></u>	
(3)	<u>The items in the formula are defined in subsections (4) to (7).</u>	15
	<u><i>Cost</i></u>	
(4)	<u>Cost is the cost of the land.</u>	
	<u><i>Exempted non-predominant main home days</i></u>	
(5)	<u>Exempted non-predominant main home days has the same meaning as in section CB 6A(11).</u>	20
	<u><i>Main home percentage</i></u>	
(6)	<u>Main home percentage has the same meaning as in section CB 6A(11B).</u>	
	<u><i>Exempted predominant main home days</i></u>	
(7)	<u>Exempted predominant main home days has the same meaning as in section CB 6A(11C).</u>	25
	<u><i>Total days</i></u>	
(8)	<u>Total days has the same meaning as in section CB 6A(11D).</u>	
62	Cross-heading above section DB 41 replaced	
	Replace the cross-heading above section DB 41 with:	
	<i>Corporate gifting</i>	30
63	Section DB 41 amended (Charitable or other public benefit gifts by company)	
(1)	After section DB 41(3), insert:	
	<i>Exclusion</i>	
(3B)	This section does not apply to a local authority.	35

- (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)

- (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 subsection (1) is— 5

- (a) the payment of an R&D loss tax credit and the person’s expenditure is attributable to that payment:
- (b) an RDTI transition support payment and the person’s expenditure is attributable to that payment. 10

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

64B Section DG 2 amended (Application of this subpart)

After section DG 2(3), insert:

Relationship with subpart DH

(3B) A person is allowed a deduction for interest incurred for disallowed residential property to the extent to which the deduction is allowed under this subpart, and the deduction is not denied under **subpart DH** (Interest incurred in relation to certain land). 15

64BB Section DG 8 amended (Expenditure limitation rule)

- (1) After section DG 8(3), insert: 20

Relationship with subpart DH

(4) Despite subsection (1), interest incurred for disallowed residential property is ignored for the purposes of applying this section and section DG 9.

- (2) In section DG 8, list of defined terms, insert “disallowed residential property”.

64C Section DG 9 amended (Apportionment formula) 25

In section DG 9(1), replace “sections DG 8 and DG 11 to DG 13” with “section DG 8”.

64CB Section DG 10 amended (Interest expenditure rules)

- (1) After section DG 10(6), insert:

Relationship with subpart DH 30

(7) Despite this section and sections DG 11, DG 12, and DG 13, interest incurred for disallowed residential property or to acquire an ownership interest in, or become a beneficiary of, an interposed residential property holder is ignored for the purposes of applying this section and sections DG 11, DG 12, and DG 13. Also, the debt to which that interest relates is ignored for the purposes of applying this section and sections DG 11, DG 12, and DG 13. 35

- (2) In section DG 10, list of defined terms, insert “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

64D Section DG 11 amended (Interest expenditure: close companies)

- (1) Replace section DG 11(1)(b) with:

(b) the company incurs interest expenditure for the income year that is not for disallowed residential property nor to acquire an ownership interest in, or become a beneficiary of, an interposed residential property holder.

- (2) After section DG 11(2), insert:

Exclude disallowed residential property and related debt and interest

- (2B) In applying this section, a close company must—

(a) for an asset that is disallowed residential property and in relation to which the company incurs interest that is subject to apportionment under section DG 8, exclude from the asset value determined for the asset the lesser of—

(i) the asset value that would be determined for the asset if this paragraph did not apply to the asset;

(ii) the amount of the company’s debt under which the company incurs interest in relation to the asset; and

(b) exclude from the company’s debt value the amount of each loan under which the company incurs interest in relation to disallowed residential property or in relation to acquiring an ownership interest in, or become a beneficiary of, an interposed residential property holder; and

(c) exclude from the company’s interest expenditure for the income year, the amount of interest that is incurred by the company in relation to disallowed residential property or in relation to acquiring an ownership interest in, or become a beneficiary of, an interposed residential property holder.

- (3) In section DG 11, list of defined terms, insert “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

64DB Section DG 14 amended (Interest expenditure: non-corporate shareholders)

After section DG 14(3), insert:

Relationship with subpart DH

- (4) Despite subsections (1) and (2), the following are ignored for the purposes of applying this section:

(a) interest, incurred by the person as shareholder in relation to shares of company A, for which a deduction is denied under **section DH 8** (Deduction not allowed); and

- (b) the debt to which that interest relates *multiplied by* the quarterly interposed residential property percentage described in **section DH 8(4)(b)**.

64E New subpart DH inserted (Interest incurred in relation to certain land)

After subpart DG, insert:

Subpart DH—Interest incurred in relation to certain land 5

DH 1 Interest related to certain land

The purpose of this subpart is to deny a person a deduction for certain interest incurred in relation to certain land, despite any other provision in this Part. The provisions of this subpart override the general permission. In this subpart—

- (a) **sections DH 2, DH 3, and DH 4** provide rules for when this subpart does and does not apply: 10
- (b) **section DH 5** provides definitions of key terms. **Section DH 6** provides a definition of **interposed residential property percentage**. **Section DH 7** provides a definition of **grandparented residential interest**:
- (c) **section DH 8** denies deductions for certain interest incurred in relation to certain land: 15
- (d) **section DH 12** provides valuation rules.

Defined in this Act: amount, deduction, general permission, interest, land

DH 2 When this subpart applies

This subpart applies to interest incurred on or after 1 October 2021. 20

Defined in this Act: interest

DH 3 When this subpart applies: companies

This subpart applies to a company, if—

- (a) the company is a close company, and it is not an exempt Māori company: 25
- (b) the company is not a close company, and—
- (i) it is a residential land company; and
- (ii) it is not a member of a wholly-owned group:
- (c) the company is not a close company, and it is a residential land wholly-owned group member. 30

Defined in this Act: company, close company, exempt Māori company, residential land company, residential land wholly-owned group member, wholly-owned group

DH 4 When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing

Exemption: new builds

(1) This subpart does not apply to interest incurred by a person to the extent to which it is— 5

(a) incurred in relation to new build land; and

(b) incurred before the date that is 20 years after the earliest of the following dates for the new build land:

(i) the date on which the code compliance certificate described in **section DH 5(7)** is issued: 10

(ii) the date that, in the records of a local authority or building consent authority, the relevant conversion or remediation is recorded as having been “completed”, in the cases provided in **section DH 5(7)(d) and (e)**: 15

(iii) the date that the relevant building work is entered into the records of a local authority or building consent authority as “substantially completed”, in the case of a code compliance certificate described in **section DH 5(7)** being issued subject to a building consent waiver or modification under clause B2.3.1 of the Building Code under the Building Act 2004. 20

Exemption: business relating to land under section CB 7

(2) This subpart does not apply to interest incurred by a person to the extent to which it is incurred in relation to a business described in section CB 7 (Disposal: land acquired for purposes of business relating to land). 25

Exemption: development, division, or building

(3) This subpart does not apply to interest incurred by a person (**person A**) to the extent to which it is incurred in relation to land (the **land**) that is or was subject to person A’s undertaking or scheme involving development, division, or building for the purpose of creating new build land. However, the exemption in this subsection ceases for person A to the extent to which the land is new build land owned by person A. 30

Exemption: social, emergency, transitional and support housing

(4) This subpart does not apply to interest incurred by a person for land, to the extent to which the land is used by a registered community housing provider under the Public and Community Housing Management Act 1992, by a department listed in schedule 2, part 1 of the Public Service Act 2020, or by Kāinga Ora—Homes and Communities and its wholly-owned subsidiaries, solely for 1 or more of the following: 35

(a)	<u>social housing, as defined in section 2 of the Public and Community Housing Management Act 1992:</u>	
(b)	<u>temporary accommodation for people in need while they seek, or are assisted in finding, more permanent accommodation:</u>	
(c)	<u>accommodation for people in need:</u>	5
(d)	<u>services connected with housing or accommodation described in paragraphs (a), (b), or (c).</u>	
	<i>Exemption: council housing</i>	
(5)	<u>This subpart does not apply to interest incurred by a person for land, to the extent to which the land is used by a council-controlled organisation, as defined in section 6 of the Local Government Act 2002, or a local authority, solely for 1 or more of the following:</u>	10
(a)	<u>housing for people assessed by a local authority as being eligible for accommodation at less than market rental:</u>	
(b)	<u>services connected with housing described in paragraph (a).</u>	15
	<i>Exemption: Kāinga Ora–Homes and Communities and wholly-owned subsidiaries</i>	
(6)	<u>This subpart does not apply to Kāinga Ora–Homes and Communities and its wholly-owned subsidiaries.</u>	
	<u>Defined in this Act: code compliance certificate, dwelling, interest, land, local authority, new build land</u>	20
DH 5 Key terms		
	<i>Code compliance certificate</i>	
(1)	<u>Code compliance certificate means a code compliance certificate issued under the Building Act 2004.</u>	25
	<i>Disallowed residential property</i>	
(2)	<u>Disallowed residential property—</u>	
(a)	<u>means land in New Zealand to the extent to which—</u>	
(i)	<u>it has a place configured as a residence or abode, whether or not it is used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:</u>	30
(ii)	<u>the owner has an arrangement that relates to erecting a place there, configured as a residence or abode, whether or not that place is or is to be used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:</u>	35
(iii)	<u>it is bare land that, under rules in the relevant operative district plan, may be used for erecting a place there, configured as a residence or abode, whether or not that place is or is to be used as a</u>	

	<u>place of residence or abode, including any appurtenances belonging to or enjoyed with the place:</u>	
	<u>(b) does not include land to the extent to which it is excepted residential land.</u>	
	<i>Excepted residential land</i>	5
(3)	<u>Excepted residential land means land to the extent to which it is described in schedule 15.</u>	
	<i>Exempt Māori company</i>	
(4)	<u>Exempt Māori company means—</u>	
	<u>(a) a company that is a Maori authority or eligible to be a Maori authority, if,—</u>	10
	<u>(i) in the case that the company is not a member of a wholly-owned group, it is not a residential land company:</u>	
	<u>(ii) in the case that the company is a member of a wholly-owned group, it is not a residential land wholly-owned group member:</u>	15
	<u>(b) a company that is wholly-owned by a Maori authority or wholly-owned by a company or trust that is eligible to be a Maori authority, if—</u>	
	<u>(i) the wholly-owned company is not a residential land wholly-owned group member:</u>	
	<u>(ii) in the case that the company is wholly-owned by a trust, the wholly-owned company is not a residential land company.</u>	20
	<i>Grandparented transitional loans</i>	
(5)	<u>Grandparented transitional loan means loan amounts denominated in New Zealand dollars, ignoring re-drawings or additional borrowings under the same loan facility on or after 27 March 2021, to the extent to which the loan amounts are—</u>	25
	<u>(a) first drawn down upon before 27 March 2021 for disallowed residential property:</u>	
	<u>(b) first drawn down upon on or after 27 March 2021 for acquiring disallowed residential property, if the person acquired an estate or interest in the property before 27 March 2021:</u>	30
	<u>(c) first drawn down upon on or after 27 March 2021 for acquiring disallowed residential property, if the acquisition of the property resulted from an offer that is—</u>	
	<u>(i) made on or before 23 March 2021; and</u>	35
	<u>(ii) irrevocable before 27 March 2021:</u>	
	<u>(d) in relation to disallowed residential property for which a previous owner (the original owner) had loan amounts described in paragraphs (a) to (c), if—</u>	

- (i) every transfer of the property since the original owner acquired it meets the requirements in **section CB 6AC, CB 6AD, CB 6AF, FB 3A, FC 9, or FO 17** (which relate to roll-over relief for the bright-line rule), treating the relevant requirements as applying to a transfer of the disallowed residential property on or after 27 March 2021 instead of a transfer of residential land on or after 1 April 2022; and 5
- (ii) the loan amounts are equal to or less than the amount of the original owner’s loan at the time the original owner transferred the property: 10
- (e) for re-financing, under a new loan facility,—
- (i) loan amounts described in **paragraphs (a) to (d)**:
- (ii) loan amounts to which this paragraph, or **paragraph (f)**, has previously applied:
- (f) for re-financing, under a new loan facility,— 15
- (i) loan amounts that would have been described in **paragraphs (a) to (d)** if it had been denominated in New Zealand dollars:
- (ii) loan amounts to which this paragraph, or **paragraph (e)**, has previously applied. 20
- Interposed residential property holder* 20
- (6) **Interposed residential property holder means—**
- (a) a close company for which the relevant person has voting interests or market value interests and the close company has, at the end of a quarter in the income year, an interposed residential property percentage of more than 10%: 25
- (b) a company that is not a close company for which the relevant person has voting interests or market value interests, and the company has, at any time in the income year, an interposed residential property percentage of more than 50%:
- (c) the trustees of a trust of which the relevant person is a direct or indirect beneficiary, if the relevant trust has, at any time in the income year, an interposed residential property percentage of more than 10%. 30
- New build land*
- (7) **New build land—**
- (a) means land to the extent to which it has a place that is configured as a self-contained residence or abode, if a code compliance certificate has been issued on or after 27 March 2020 evidencing that the place was added to the land or converted into a residence or abode; and 35

- (b) includes, for land described in **paragraph (a)**, land exclusively used by residents of the place and also a reasonable proportion of shared areas of land, appurtenant to the place; and
- (c) includes land for which there is an agreement that a place that is configured as a self-contained residence or abode will be added to the land and a code compliance certificate will be issued on or after 27 March 2020 evidencing that the place was added to the land; and 5
- (d) includes land that has a place that was a hotel or motel, to the extent to which, by a conversion, it becomes places that are configured as self-contained residences or abodes, and the conversion is recorded in the records of a local authority or building consent authority as having been “completed” on or after 27 March 2020; and 10
- (e) includes land to the extent to which it has a place that is configured as a self-contained residence or abode, if the place was removed from the earthquake prone buildings register on or after 27 March 2020, and— 15
 - (i) a code compliance certificate has been issued on or after 27 March 2020 evidencing that building work to remediate the place is complete;
 - (ii) the completion of the building work to remediate the place is recorded in the records of a local authority or building consent authority as having been “completed” on or after 27 March 2020 and as having been verified by a suitably qualified engineer; and 20
- (f) includes land to the extent to which it has a place that is configured as a self-contained residence or abode, if the place was not previously weather-tight and a code compliance certificate has been issued on or after 27 March 2020 evidencing that at least 75% of the place’s cladding has been replaced. 25

Residential land company

- (8) **Residential land company** means a company for which the ratio calculated using the following formula and expressed as a percentage is equal to or greater than 50% at any time during the relevant income year: 30

$$\frac{\text{(disqualified property + indirect disqualified property)}}{\text{total assets}}$$

Definition of items in formula

- (9) In the formula in **subsection (8)**,—
- (a) **disqualified property** is the value of the company’s property that is disallowed residential property, but excluding property described in **section DH 4(2) or (3)**: 35
 - (b) **indirect disqualified property** is the value of shares that the company holds in other companies that are residential land companies:
 - (c) **total assets** is the total value of the company’s assets. 40

Residential land wholly-owned group member

(10) **Residential land wholly-owned group member** means a company that is a member of a wholly-owned group of companies and the ratio for the group, calculated using the following formula, expressed as a percentage, is equal to or greater than 50% at any time during the relevant income year:

5

$$\frac{\text{(disqualified property + indirect disqualified property)}}{\text{total assets}}$$

Definition of items in formula

(11) In the formula in **subsection (10)**,—

(a) **disqualified property** is the value, on a consolidated basis, of the wholly-owned group's property that is disallowed residential property, but excluding property described in **section DH 4(2) or (3)**:

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(b) **indirect disqualified property** is the value of shares that the wholly-owned group holds in non-group companies that are residential land companies:

(c) **total assets** is the total value, on a consolidated basis, of the wholly-owned group's assets.

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Defined in this Act: code compliance certificate, company, disallowed residential property, excepted residential land, exempt Māori company, grandparented transitional loan, income year, interposed residential property percentage, land, new build land, residential land company, residential land wholly-owned group member, trustee, wholly-owned group

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DH 6 Interposed residential property percentage

Interposed residential property percentage

(1) **Interposed residential property percentage** is the amount, for an interposed residential property holder (the **person**), calculated using the following formula, expressed as a percentage:

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$$\frac{\text{disqualified assets}}{\text{total assets}}$$

Definition of items in formula

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

(a) **disqualified assets** is the value of the person's property that is disallowed residential property, but excluding—

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(i) property described in **section DH 4(1) to (3)**; and

(ii) for a close company, property that is subject to subpart DG (Expenditure related to use of certain assets):

(b) **total assets** is the value of the person's assets.

Special rule: interposed residential property holder

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(3) If the person is a company, the items **disqualified assets** and **total assets** in this section are calculated to also include assets held by lower tier companies to the company by applying section YC 4 (Look-through rule for corporate shareholders), treating the person as the ultimate shareholder, to attribute, in propor-

tion to the relevant voting interests and market value interests under that section, those lower tier assets.

Further special rule

- (4) For the purposes of this section and the definition of **interposed residential property holder**, a loan entered into by a close company before it became a look-through company is treated as a loan of the company after, and even though, it became a look-through company.

Defined in this Act: close company, disallowed residential property, interposed residential property holder, market value interest, interposed residential property percentage, look-through company, voting interest

DH 7 Grandparented residential interest

Grandparented residential interest

- (1) **Grandparented residential interest** means interest, for a person and a grandparented transitional loan, that is,—

(a) interest for the loan’s principal to the extent to which the interest is incurred for disallowed residential property:

(b) if the loan (the **underlying loan**) is for both disallowed residential property and property that is allowed property described in **subsection (3)(b)**, and the portion incurred for disallowed residential property cannot reasonably be determined, the portion of underlying interest calculated by reference to a notional loan principal (the **notional loan principal**) that the person is treated as having used to acquire, on 26 March 2021, the disallowed residential property to which the underlying loan relates. The initial notional loan principal is calculated using the formula in **subsection (2)** and the treatment of repayments is provided in **subsection (4)**.

Grandparented residential interest: loan portion when tracing cannot reasonably be determined: initial notional loan balance

- (2) For the purpose of **subsection (1)(b)**, the notional loan principal is calculated using the following formula, treating a negative amount as zero:

outstanding borrowings – allowed property.

Definition of items in formula

- (3) In the formula in **subsection (2)**,—

(a) **outstanding borrowings** is the principal of the underlying loan, determined as at 26 March 2021, to the extent to which it is for both disallowed residential property and property that is **allowed property** described in **paragraph (b)**:

(b) **allowed property** is the total of—

- (i) the value of the person’s assets, determined as at 26 March 2021, that is not disallowed residential property, but ignoring assets that are not used in deriving assessable income; and
- (ii) to the extent to which the person’s assets are disallowed residential property described in **section DH 4**, the value of those assets, determined as at 26 March 2021.

5

Grandparented residential interest: repayments

- (4) A repayment of the underlying loan is applied against the notional loan principal to reduce it, to a minimum of zero. However, if the source of the repayment is the disposal of allowed property described in **subsection (3)(b)** and the repayment exceeds the value, determined as at 26 March 2021, of the allowed property disposed of, the notional loan principal is reduced by the amount of the excess.

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Defined in this Act: assessable income, disallowed residential property, grandparented transitional loan, interest, loan

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DH 8 Deduction not allowed

Deduction denied

- (1) A person is denied a deduction for interest if and to the extent to which the interest is—
- (a) incurred for disallowed residential property, but excluding interest for a grandparented transitional loan;
 - (b) grandparented residential interest;
 - (c) incurred to acquire an ownership interest in, or become a beneficiary of, an interposed residential property holder;
 - (d) incurred to refinance a loan, interest for which is described in **paragraph (a) or (c)**.

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Denial limited: grandparented residential interest

- (2) The amount of the deduction denied for grandparented residential interest is limited to the following percentages for the following periods:

<u>Period that grandparented residential interest is incurred</u>	<u>Percentage denied</u>
<u>1 October 2021 to 31 March 2022</u>	<u>25%</u>
<u>1 April 2022 to 31 March 2023</u>	<u>25%</u>
<u>1 April 2023 to 31 March 2024</u>	<u>50%</u>
<u>1 April 2024 to 31 March 2025</u>	<u>75%</u>
<u>On and after 1 April 2025</u>	<u>100%</u>

Denial limited using quarterly calculation periods: owners of interposed residential property holders

- (3) The amount of the deduction denied for interest (the **interest**) incurred as the owner or to become an owner of an interposed residential property holder that is a close company is limited, for an income year, to the amount calculated quarterly using the following formula and summed for the entire income year:

5

interposed interest × quarterly interposed residential property percentage.

Definition of items in formula

- (4) In the formula in **subsection (3)**—
- (a) **interposed interest** is the interest, to the extent to which it is incurred in the relevant quarterly calculation period:
- (b) **quarterly interposed residential property percentage** is the interposed residential property percentage for the interposed residential property holder, calculated, as described in **section DH 6**, at the end of the relevant quarterly calculation period.

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Defined in this Act: close company, disallowed residential property, deduction, grandparented residential interest, grandparented transitional loan, income year, interest, interposed residential property holder, interposed residential property percentage

DH 9 Exception to limited denial of deductions: loans denominated in foreign currencies

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Despite **section DH 8(2) and (3)**, a deduction is denied for all interest to which **section DH 8(1)** applies that is incurred under a loan in foreign currency.

Defined in this Act: deduction, interest, loan

DH 10 Limited denial of deductibility: simplified calculation of interest affected

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Application of section

- (1) This section applies to a person who chooses to rely on the method of calculation it contains for calculating interest incurred under some loans and subject to limited denial of deductibility under this subpart.

Purpose of section

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- (2) This section is intended to simplify the calculation, for a loan that may be drawn down in several tranches, of the amount of interest incurred in the period (the **affected interest period**) from 1 October 2021 to 31 March 2025 that is—
- (a) described in **section DH 8(1)**; and
- (b) subject to limited denial of deductibility under **section DH 8(2)**.

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Interest affected by limited denial of deductibility

- (3) For a period in the affected interest period, the amount of interest incurred under the loan that is affected by limited denial of deductibility under section DH 8(2) is the total amount of interest that can be attributed for instants in the

<u>period to the amount of the loan that is the lesser, for the instant in the period, of—</u>	
<u>(a) the amount (the initial loan balance) given by subsection (4):</u>	
<u>(b) the amount (the affected loan balance) given by subsection (5).</u>	
<u><i>Initial loan balance</i></u>	5
<u>(4) The initial loan balance is the amount of the loan that is allocated to disallowed residential property for the date (the start date) that is—</u>	
<u>(a) the end of 26 March 2021, if paragraphs (b) and (c) don't apply; or</u>	
<u>(b) the date on which the loan is drawn down, if the loan is a grandparented transitional loan under paragraph (b) or (c) of the definition of that term and is drawn down on or after 27 March 2021; or</u>	10
<u>(c) the date on which the loan is drawn down if the acquisition of the property is described in section CB 6AC, CB 6AD, CB 6AE, or CB 6AF.</u>	
<u><i>Affected loan balance</i></u>	
<u>(5) The affected loan balance is the amount of the loan that is a grandparented transitional loan at an instant (the balance time) in the affected interest period, calculated using the following formula:</u>	15
<u>initial loan balance + (advances – repayments) – (unrelated advances – unrelated repayments).</u>	
<u><i>Definition of items in formula</i></u>	20
<u>(6) In the formula in subsection (5)—</u>	
<u>(a) initial loan balance is the amount given by subsection (4):</u>	
<u>(b) advances is the total amount of the loan applied in transactions that occur in the period between the start date and the balance time:</u>	
<u>(c) repayments is the total amount of the loan repaid in transactions that occur in the period between the start date and the balance time:</u>	25
<u>(d) unrelated advances is the total amount of the loan that is not a grandparented transitional loan in the period between the start date and the balance time:</u>	
<u>(e) unrelated repayments is the total amount of the loan repayments applied under section DH 7(4) against the notional loan principal in the period between the start date and the balance time.</u>	30
<u>Defined in this Act: disallowed residential property, interest, loan</u>	
<u>DH 11 Denied amounts: treatment upon disposal of disallowed residential property</u>	35
<u><i>Disposal subject to section CB 6A or CZ 39: denied amount included as cost</i></u>	
<u>(1) An amount that relates to disallowed residential property and is denied under section DH 8 as a deduction that would have otherwise been allowed for a</u>	

person is treated under section DB 23 (Cost of revenue account property) as a cost for the person of the disallowed residential property in the income year of the disposal of the disallowed residential property if the amount derived from the disposal is income under section CB 6A or CZ 39 (which relate to disposals of residential land within a given period from acquisition).

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Disposal not subject to section CB 6A or CZ 39: denied amount allocated under section EL 4 or EL 7

(2) An amount that relates to disallowed residential property and is denied under **section DH 8** as a deduction that would have otherwise been allowed for a person is allowed under this section as a deduction in the income year of the disposal of the disallowed residential property, and is subject to allocation under subpart EL (Allocation of deductions for excess residential land expenditure), if the disallowed residential property is or was residential rental property for purposes of subpart EL and the amount derived from the disposal of the disallowed residential property—

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(a) is income under a section other than section CB 6A or CZ 39; and

(b) is not income under section CB 6A or CZ 39.

Defined in this Act: deduction, disallowed residential property, income, income year

DH 12 Valuation

Land not used in undertaking creating new build land

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(1) For the purposes of this subpart, a person's land, excluding land described in **section DH 4(2) and (3)**, is—

(a) valued at its most recent capital value or annual value set by a local authority; or

(b) if the land was acquired after the most recent local authority valuation, it is valued at its acquisition cost or, in the case of an associated person acquisition, its market value.

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Property used in undertaking

(2) For the purposes of this subpart, to the extent to which **subsection (1)** does not apply for a person's property, the property is—

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(a) valued using its tax book value; or

(b) if the person prepares financial accounts according to relevant accounting standards or legislative standards, valued using the financial accounts' valuation.

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Defined in this Act: associated person, land, local authority, market value

64F Section DT 1A amended (Ring-fenced allocations)

In section DT 1A(4), replace “and IP 3” with “IP 3, and **IP 3B**”.

65 Section DV 18B amended (Cost base for shares when debt forgiven within economic group)

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”. 5

67 Section EE 40 amended (Transfer of depreciable property on or after 24 September 1997)

- (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%.” 10
- (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%.” 5
- (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) 15

In section EE 44(2)(d), after “insurance”, insert “or compensation”.

68BA Section EE 47 amended (Events for purposes of section EE 44)

- (1) In the heading to section EE 47(4), delete “or grandparented structure”.
- (2) In section EE 47(4)(a), delete “or grandparented structure”.
- (3) In section EE 47(4)(b), delete “or grandparented structure” in each place. 20
- (4) **Subsections (1), (2), and (3)** apply for the 2020–21 and later income years.

68BAB Section EE 48 amended (Effect of disposal or event)

- (1) In section EE 48(3)(a), delete “or grandparented structure” in each place.
- (2) **Subsection (1)** applies for the 2020–21 and later income years.

68B Section EH 2 replaced (Income Equalisation Reserve Account) 25

Replace section EH 2 with:

EH 2 Deposits to be paid into Crown Bank Account

Every deposit a person makes with the Commissioner under a scheme referred to in section EH 1(2)—

- (a) is public money; and 30
- (b) must be paid into a Crown Bank Account.

Defined in this Act: Commissioner, deposit, pay, person

69 Section EJ 10B amended (IFRS leases)

- (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.

69B Section EK 1 replaced (Environmental Restoration Funds Account)

Replace section EK 1 with:

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EK 1 Payment to Crown Bank Account

Every payment a person makes to the Commissioner under section EK 2—

- (a) is public money; and
- (b) must be paid into a Crown Bank Account.

Defined in this Act: Commissioner, pay

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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:
- (2) **Subsection (1)** applies for ~~the 2022–23 and later income years~~ ~~income years starting on or after the day on which this Act receives the Royal assent.~~

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70B Section EL 14 amended (Continuity rules for companies)

In section EL 14, replace “and IP 3” with “IP 3, and **IP 3B**”.

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71 Section EM 1 amended (Australian non-attributing shares and attributing FDR method interests)

- (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~~ a hedge-by-hedge method or the portfolio method:
 - (d) **section EM 5** provides the hedge-by-hedge methods to calculate fair dividend rate hedge portions for a person’s eligible hedges:
 - (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.”.

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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.
- (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—
 - (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
 - (b) meets the requirements of subsection (1)(b) to (e); and
 - (c) is entered into 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 to income or expenditure under any other subpart of this Act.

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.

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.

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.

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.

Portfolio

- (6) A person that uses a ~~daily-unit valuation period~~, under section EX 53 (Fair dividend rate periodic method), of 1 month or less may choose the portfolio method under **section EM 5B**.

Portfolio: effect

- (7) An election under **subsection (6)** is irrevocable for 42 years unless the Commissioner notifies the person that the person may revoke earlier. ~~and~~ An election applies for all eligible hedges post-election, but does not have to be made before a relevant hedge is entered into. Also, a new election under subsection (6) cannot be made until 12 months after the end of an old election under subsection (6), unless the Commissioner notifies the person that the person may make a new election earlier.

Defined in this Act: Commissioner, eligible hedge, fair dividend rate hedge portion, income

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 methods**”.
- (2) Replace section EM 5(1) with:

Fair dividend rate hedge portions

- (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).
- (4) Replace section EM 5(3) with:

Choice of methods

- (3) A person may choose to use either the method in subsections (4) and (5), or the method in subsections (9) and ~~(10)~~ to (10D), 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, the method in subsec-

- tions (4) and (5)** for some hedges and the method in **subsections (9) and (10)** for other hedges.
- (4B) In section EM 5(4), in the heading, replace “*formula*” with “*method*”.
- (5) In section EM 5(4), replace “maximum” with “maximum or minimum, as the case may be,”. 5
- (6) In section EM 5(4), replace “first entered into” with “first entered into or acquired”.
- (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 10
- (ii) if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by ~~the relevant~~ a multi-rate PIE, described in section EM 1(1)(a) and (b), and denominated in the calculation currency: 15
- (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. 20
- (10) Replace section EM 5(9) and (10) with:
- Second ~~formula~~ method*
- (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: 25
- $$\text{FDR gross amount} \times \text{apportioned current hedge amount} \div \text{calculation hedge amount.}$$
- Definition of items in ~~second~~ formula* 30
- (10) In the formula in **subsection (9)**, all items are expressed in New Zealand currency, and—
- (a) **FDR gross amount** ~~means~~ is the amount given by **subsection (10B)**;
- (b) **apportioned current hedge amount** ~~means~~ is the amount given by **subsection (10D)**; 35
- (c) **calculation hedge amount** is the amount of foreign currency that is hedged by the calculation hedge.

FDR gross amount

- (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 when the hedge is first entered into or acquired:

$$(1.05 \times \text{eligible currency assets} - \text{FDR hedges amount}) \div \text{apportioned current hedge amount.}$$

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Definition of items in FDR gross formula

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- (10C) In the formula in **subsection (10B)(b)**, all items are expressed in New Zealand currency, and—
- (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):
 - (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~~ is the amount given by **subsection (10D)**.

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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:
- (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:
 - (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:
 - (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.

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(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:

EM 5B Fair dividend rate hedge portions: portfolio method	5
<i>Fair dividend rate hedge portions</i>	
(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 .	
<i>Lowest amount</i>	
(2) The fair dividend rate hedge portion is the lowest of the amounts described in subsections (4) and (6) .	10
<i>Period calculation</i>	
(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-election, for the income year for the term of their election to use this portfolio method under section EM 4(6) and (7).	15
<i>First formula</i>	
(4) For the purposes of subsection (2) , the amount is calculated using formula—	20
$1 - (\text{non-eligible assets} \div \text{portfolio hedges amount}).$	
<i>Definition of items in formula</i>	
(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:	25
(b) portfolio hedges amount is the total amount of foreign currency that is hedged by a person’s hedges.	
<i>Second formula</i>	
(6) For the purposes of subsection (2) , the amount is calculated using the formula—	30
$(1.05 \times \text{eligible assets}) \div \text{portfolio hedges amount}.$	
<i>Definition of items in formula</i>	
(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	35

owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b):

- (b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person’s hedges.

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

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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)”.

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- (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:

- (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:

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77 Section EM 7 amended (Quarterly test of fair dividend rate hedge portions)

- (1) Replace section EM 7(1), other than the heading, with:

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- (1) A person must use the first formula, in subsection (2), on a day (the **calculation day**) they choose within a quarter of an income year, to calculate their quarterly FDR hedging ratio. The calculation day must be the same day for each quarter within the income year.

- (2) In section EM 7(4), replace “last day” with “calculation day”.

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- (3) After section EM 7(5), insert:

Relationship with subject matter

- (5B) This section overrides **section EM 5**, but does not apply if and to the extent to which **section EM 5B** applies.

- (4) In section EM 7(6), replace “last day” with “calculation day”.

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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

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- (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 per-

son's assets described in section EM 1(1)(a) and (b), or, at the election of the person, foreign cash assets that relate directly to assets described in section EM 1(1)(a) and (b) and to FDR hedge portions:

- (ii) eligible hedges: 5
- (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 an investor in a multi-rate PIE, either directly or indirectly through 1 or more multi-rate PIEs, if and to the extent to which income of the multi-rate PIE from an asset described in section EM 1(1)(a) and (b) is attributed to the person~~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).~~

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

- (1) After section EW 5(3), insert:

~~Cryptoasset~~Cryptocurrency

(3BA) A ~~cryptoasset~~cryptocurrency is an excepted financial arrangement if the ~~cryptoasset~~cryptocurrency does not meet the requirements of **subsection (3BAB)**. 20

~~Exception: cryptoasset producing specified return on purchase price~~

~~(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.~~ 25

~~Exception: cryptocurrency producing specified returns on purchase price~~

(3BAB) A cryptocurrency is not an excepted financial arrangement if a consequence of ownership of the cryptocurrency is that the owner receives or is entitled to receive, during the period of ownership, amounts that are determined— 30

- (a) by reference to the quantity or value of the cryptocurrency; and
- (b) on a basis that is known by the owner in advance; and
- (c) not by reference to the profits of a business activity.

- (2) After section EW 5(13), insert:

Option over cryptocurrency

(13B) An option to acquire or to dispose of cryptocurrency is an excepted financial arrangement. 35

- 80 Section EW 46C amended (Consideration when debt forgiven within economic group)**
- (1) In the heading to section EW 46C, replace “**forgiven**” with “**remitted**”.
 - (2) In section EW 46C(1), words before the paragraphs, replace “forgiven” with “remitted”. 5
 - (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: 10
 - (4) In section EW 46C(2)(a), replace “forgiven” with “remitted”. 15
 - (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”. 20
 - (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. 25
 - (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)**. 30

80BA Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)

- (1) In section EZ 23B(7)(d), delete “, grandparented structure.”.
- (2) In section EZ 23B(10)(b)(i), delete “or grandparented structure”. 35
- (3) In section EZ 23B(11B), words before the paragraphs, delete “or grandparented structures”.
- (4) In section EZ 23B, list of defined terms, delete “grandparented structure”.

(5) **Subsections (1), (2), (3), and (4)** apply for the 2020–21 and later income years.

80BAB Section EZ 23BB amended (Interest in property acquired after depreciable property affected by Canterbury earthquakes)

- (1) In section EZ 23BB(11)(b)(i), delete “or grandparented structure”. 5
 (2) In section EZ 23BB, list of defined terms, delete “grandparented structure”.
 (3) **Subsections (1) and (2)** apply for the 2020–21 and later income years.

80BAC Section EZ 23BC amended (Property acquired after depreciable property affected by Hurunui/Kaikōura earthquakes)

- (1) In section EZ 23BC(8)(b), delete “, grandparented structure,”. 10
 (2) In section EZ 23BC(11)(b)(i), delete “or grandparented structure”.
 (3) In section EZ 23BC(11)(b)(iii), delete “or grandparented structures”.
 (4) In section EZ 23BC(11)(b)(iv), delete “or grandparented structures”.
 (5) In section EZ 23BC(11)(b)(vii), delete “, grandparented structure,”.
 (6) In section EZ 23BC, list of defined terms, delete “grandparented structure”. 15
 (7) **Subsections (1), (2), (3), (4), (5), and (6)** apply for the 2020–21 and later income years.

80BAD New section EZ 23BD inserted (Loss on disposal of grandparented structure)

- (1) After section EZ 23BC, insert: 20

EZ 23BD Loss on disposal of grandparented structure

- (1) Despite section EE 48(3), subsection (2) of that section applies if the item is a grandparented structure.
 (2) In this section, **grandparented structure** means, for a person, any item on the following list, if the person acquired the item, or entered into a binding contract for the purchase or construction of the item, on or before 30 July 2009: 25
 (a) barns, including barns (drying):
 (b) carparks (buildings):
 (c) chemical works:
 (d) fertiliser works: 30
 (e) powder drying buildings:
 (f) site huts.

Defined in this Act: grandparented structure

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

80BAE Section EZ 73 amended (Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions)

In section EZ 73, list of defined terms, delete “grandparented structure”.

80B Section FB 3A amended (Residential land)

In section FB 3A(3), replace “CB 6A(1) to (5) and CZ 39(2) to (6)”, with “**CB 6A**, and CZ 39”.

80C New cross-heading and sections FC 9B and FC 9C inserted

After section FC 9, insert:

Exceptions for residential land transferred to trustees of certain trusts or other entities

FC 9B Residential land: certain transferors

For the purposes of calculating a person’s net income in relation to the disposal of residential land for which they derive an amount of income under **section CB 6A or CZ 39** (which relates to residential land), if they are the transferor under **section CB 6AC, CB 6AD, CB 6AE, or CB 6AF** (which relates to residential land), they are treated as disposing of the land for the greater of either its cost to them or the consideration they derive as transferor.

Defined in this Act: cost, dispose, income, net income, residential land

FC 9C Residential land: certain recipients

For the purposes of calculating a person’s (**person A’s**) net income in relation to the disposal of residential land for which person A derives an amount of income under **section CB 6A or CZ 39** (which relates to residential land), if person A is the recipient under **section CB 6AC, CB 6AD, or CB 6AF** (which relates to residential land), they are treated as acquiring the land for the greater of either its cost to the person (**the transferor**) that transferred the land to them or the consideration person A gives the transferor for disposing of the land to person A.

Defined in this Act: acquire, cost, dispose, income, net income, residential land

FC 9D Residential land: certain recipients of Treaty of Waitangi land

For the purposes of calculating a person’s (**person A’s**) net income in relation to the disposal of residential land for which person A derives an amount of income under **section CB 6A or CZ 39** (which relates to residential land), person A is treated as acquiring the land for its market value at the time the land was transferred from the Crown, if person A is the recipient under **CB 6AE** (Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi).

Defined in this Act: acquire, cost, dispose, income, net income, residential land

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

- (1) This section applies for a person, (the **funder**) and an income year when the funder is— 5
- (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 10
- (b) a deducting branch in New Zealand of a non-resident, who is resident in a country or territory outside New Zealand that does not have ~~hybrid mismatch legislation and~~ legislation having the same effect as this subpart, and who ~~has a deducting branch in New Zealand, who~~ makes a charge to the deducting branch that meets the requirements of **subsection (1B)**. 15

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—
- (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 20
- (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 25
- (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~~ legislation having the same effect as this subpart; and 30
- (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 35
- (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
- (f) the funded payment gives rise to a hybrid mismatch; and 40

- (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”.
- (3) Replace section FH 11(4), other than the heading, with: 5
- (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. 10
- (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 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. 15
- (5) After section FH 11(5), insert:
- Deduction allowed in later income year*
- (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— 20
- (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 25
- ~~(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.
- ~~(6) Subsection (4) applies for income years beginning on or after the date on which this Act receives the Royal assent. 30~~
- (6) **Subsections (1), (2), (4), and (5)** apply for income years beginning on or after 1 July 2018.
- (7) **Subsection (3)** applies for a payment in an income year beginning on or after 1 January 2020. 35
- (8) Despite **subsections (6) and (7), subsections (1), (2), (3), (4), and (5)** do not apply to a person in relation to a tax position taken by the person—
- (a) for an income year beginning before the date on which this Act receives the Royal assent; and

- (b) relying on section FH 11 as it was before the amendments made by **subsections (1), (2), (3), (4), and (5)**.

82 Section FH 15 amended (Definitions)

- (1) In section FH 15(1), replace the definition of **hybrid mismatch** with: 5
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
- (2) In section FH 15(1), definition of **hybrid mismatch legislation**, paragraph (b), replace “a provision” with “this subpart or a provision”. 10
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 July 2018. However, **subsections (1) and (2)** do not apply to a person in relation to a tax position taken by the person—
- (a) for an income year beginning before the date on which this Act receives the Royal assent; and 15
- (b) relying on the definitions of **hybrid mismatch** and **hybrid mismatch legislation** in section FH 15(1) as they were before the amendments made by **subsections (1) and (2)**.

83 Section FM 8 amended (Transactions between group companies: income)

- (1) Replace section FM 8(3)(d) with: 20
 (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.~~ 25
- (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)

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) 30

In section FO 21(1)(b), replace “forgiven” with “remitted”.

85B Section GB 3 amended (Arrangements for carrying forward loss balances: companies’ ownership)

In section GB 3(1)(c), replace “Continuity” with “Ownership continuity”. 35

85C New cross-heading and sections GB 53B and GB 53C inserted

After section GB 53, insert:

Interest incurred in relation to certain land

GB 53B Interposed residential property percentage: increases or decreases in value

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When this section applies

(1) This section applies when there is an increase or decrease in value that affects, or would affect the result of a calculation of a person’s interposed residential property percentage, defined in **section DH 6** (Interposed residential property percentage), and the increase or decrease is—

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(a) caused by an action or omission that has, or would have the purpose or effect of defeating the intent and application of **subpart DH** (Interest incurred in relation to certain land):

(b) produced by an arrangement that has a purpose or effect of defeating the intent and application of **subpart DH**.

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Effect of increase or decrease

(2) The effect of the increase or decrease in value on the calculation of a person’s interposed residential property percentage is ignored.

Defined in this Act: arrangement, interposed residential property percentage

GB 53C On-lending at lower rate

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When this section applies

(1) This section applies when, under an arrangement, a person borrows money and on-lends it to an associated person at a lower rate than that at which the person borrowed it, if—

(a) the associated person, or a person associated with the associated person, owns disallowed residential property; and

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(b) the arrangement has a purpose or effect, not being a merely incidental purpose or effect, of defeating the intent and application of **subpart DH** (Interest incurred in relation to certain land).

Lower rate used

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(2) The amount of interest incurred by the person for the purposes of **Part D** is limited to and calculated using the lower rate. The higher rate is ignored.

Defined in this Act: arrangement, associated person, disallowed residential property, interest, money

85D Section GC 3B amended (Disposals of emissions units)

(1) In section GC 3B(2)(c)(iii), replace “transferee.” with “transferee:”.

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(2) After section GC 3B(2)(c), insert:

(d) the cancellation of the unit.

- (3) **Subsections (1) and (2)** apply for a person and an income year beginning on or after 1 January 2009, except for an income year for which the person chooses to rely on a tax position taken before the date on which this Act receives the Royal assent.
- 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 15
- (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). 20
- 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)** 25
In section HR 3(6A)(f), replace “the Housing New Zealand Corporation” with “Kāinga Ora—Homes and Communities”.
- 89 Section HR 9BA amended (Elections to treat debt funding special purpose vehicles as transparent)** 30
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~~ formation of the debt funding special purpose vehicle and before the return of income referred to in paragraph (b), 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 35

- (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.

89B Section IA 5 amended (Restrictions on companies’ loss balances carried forward: continuity of ownership) 5

- (1) In section IA 5(4), replace “IB 3 or IP 3” with “IB 3, IP 3, or **IP 3B**”.
- (2) **Subsection (1)** applies in relation to a breach of the requirements for continuity of ownership of section IA 5 if the breach occurs during the 2020–21 income year or a later income year. 10

89C Section IB 3 amended (When tax loss components of companies carried forward despite ownership continuity breach)

- (1) Replace section IB 3(3)(b) and (c) with:
- (b) the company has had another ownership continuity breach—
- (i) since the later of the beginning of the earlier income year and the beginning of the 2020–21 income year; and 15
- (ii) in relation to which the requirements of subsection (2)(b) and (c) for the carrying forward to the tax year of the tax loss component are not met;
- (c) the earlier income year is before the 2020–21 income year and the tax loss component could not be carried forward to the 2020–21 tax year in the absence of this subpart. 20
- (2) In section IB 3(5)(a), replace “carried on by the company” with “that the company carried on immediately before the beginning of the business continuity period”. 25
- (3) In section IB 3(5)(b), after “technology”, insert “relating to a business activity that the company carried on immediately before the beginning of the business continuity period”.
- (4) Replace section IB 3(5)(c) with:
- (c) caused by an increase in the scale of a business activity that the company carried on immediately before the beginning of the business continuity period, including as a result of the company entering a new market for a product or service that it produced or provided at that time; 30
- (5) After section IB 3(5), insert:
- Exclusion: mining net losses* 35
- (5B) This section does not apply to an amount referred to in section IA 7(7) (Restrictions relating to ring-fenced tax losses) that is treated by subsection (1B) of that section as if it were a tax loss component.
- (6) In section IB 3, list of defined terms, insert “amount”.

(7) **Subsections (1), (2), (3), (4), and (5)** apply in relation to a breach of the requirements for continuity of ownership of section IA 5 if the breach occurs during the 2020–21 income year or a later income year.

89D Section IB 5 amended (When group companies treated as single company)

(1) In section IB 5, replace “Companies” with “New Zealand resident companies”. 5

(2) In section IB 5, list of defined terms, insert “New Zealand resident”.

(3) **Subsection (1)** applies in relation to a breach of the requirements for continuity of ownership of section IA 5 if the breach occurs during the 2020–21 income year or a later income year.

89E Section ID 5 amended (Pre-consolidation losses on exit: part-year rule) 10

(1) In section ID 5(2), replace “section IP 3(3) (Continuity breach: tax loss components of companies carried forward)” with “section IP 3(3) or **IP 3B(3)** (which relate to the carrying forward of tax losses for companies)”.

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

89F Section IP 1 amended (When this subpart applies) 15

(1) In section IP 1(1),—

(a) words before the paragraphs, replace “either or both” with “1 or more of”;

(b) paragraph (b), replace “(a **continuity breach**),” with “(an **ownership continuity breach**):”; 20

(c) after paragraph (b), insert:

(c) when a company to which section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) applies breaches, during an income year, the requirement of section IB 3(2)(b) or (c) for the carrying forward of a tax loss component to the tax year that corresponds to the income year (a **business continuity breach**). 25

(2) In the heading to section IP 1(2), replace “IA, IC,” with “IA, IB, IC,”.

(3) In section IP 1(2), replace “IA, IC,” with “IA, IB, IC,”.

(4) In section IP 1, list of defined terms, insert “company”, “income year”, and “tax loss component”. 30

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

89G Section IP 3 amended (Continuity breach: tax loss components of companies carried forward)

In the heading to section IP 3, replace “Continuity” with “Ownership continuity”. 35

89H New section IP 3B inserted (Business continuity breach: tax loss components of companies carried forward)

(1) After section IP 3, insert:

IP 3B Business continuity breach: tax loss components of companies carried forward

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When this section applies

(1) This section applies for the purposes of section IA 4 (Using loss balances carried forward to tax year) if a tax loss component of a company would have been carried forward under section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) to a tax year but for a breach or breaches, during the income year that corresponds to the tax year, of either or both of the requirements of section IB 3(2)(b) and (c).

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Tax loss components for earlier income years

(2) Despite the breach or breaches, the tax loss component is carried forward to the tax year to the extent to which—

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(a) the requirements of section IB 3(2)(b) and (c) would be met if the relevant period described in section IB 4 (Business continuity period) included only part of the income year of the company that corresponds to the tax year; and

(b) the company has net income for part of the corresponding income year; and

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(c) the company provides the Commissioner with adequate financial statements under section IP 6 calculating the amount of the company’s net income for the relevant part of the corresponding income year.

Limit on tax loss components carried forward

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(3) The total tax loss components carried forward under **subsection (2)** must be no more than the amount calculated under **subsection (2)(b) and (c)**, although the amount may be increased if section IP 5 applies.

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

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

89I Section IP 4 amended (Breach in income year in which tax loss component arises)

(1) In section IP 4(2)(b), after “company A”, insert “, or continuity of company A’s business activities.”.

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

- 89J Section IP 5 amended (Breach in tax year in which loss balance is grouped)**
- (1) In section IP 5(2)(b), after “company A”, insert “, or continuity of company A’s business activities.”.
- (2) **Subsection (1)** applies for the 2020–21 and later income years. 5
- 89K Section IP 6 amended (Financial statements required)**
- (1) After section IP 6(1), insert:
*Financial statements required from company: **section IP 3B***
- (1B) For the purposes of this subpart, a company must provide the Commissioner with adequate financial statements under **section IP 3B(2)(c)** relating to the continuity period. 10
- (2) **Subsection (1)** applies for the 2020–21 and later income years.
- 89L Section IZ 8 amended (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year)**
- In section IZ 8(12), replace “Continuity” with “Ownership continuity”. 15
- 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”.
- ~~**91 Section LE 2 amended (Use of remaining credits by companies and trustees)**~~ 20
- (1) ~~Replace section LE 2(2)(a) with:~~
- ~~(a) a company other than a life insurer or a local authority; or~~
- (2) ~~In section LE 2, list of defined terms, insert “local authority”.~~
- (3) ~~**Subsection (1)** applies for the 2022–23 and later income years.~~ 25
- 91B Section LT 1 amended (Tax credits for petroleum miners)**
- (1) In section LT 1(1)(a)(ii), replace “); and” with “):”.
- (2) After section LT 1(1)(a)(ii), insert:
(iii) incurred expenditure in plugging and abandoning an exploratory well for which they are entitled to a deduction; and 30
- (3) In section LT 1(2), replace “for an amount” with “less than or equal to the amount (the **current loss credit**)”.
- (4) In section LT 1(3)(a), replace “subsection (1)(a)(i) and (ii)” with “subsection (1)(a)(i) to (iii)”.
- (5) Replace section LT 1(4) with: 35

Maximum amounts

- (4) The amount of the credit must not be more than the lesser of—
(a) the amount of total tax given by **subsection (4C)**; and
(b) the amount calculated using the formula—
current loss credit – exploration abandonment excess.

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Definition of items in formula

- (4B) In the formula in **subsection (4)(b)**,—
(a) **current loss credit** is the amount given by **subsection (2)**;
(b) **exploration abandonment excess** is the amount by which the amount calculated by multiplying the amount referred to in **subsection (1)(a)(iii)** for the income year by the tax rate referred to in subsection (3)(b) exceeds the amount of income tax paid by—
(i) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for tax years beginning after drilling for the purposes of exploration ceased in the exploratory well, calculated on a year-by-year basis and aggregated;
(ii) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for tax years beginning after drilling for the purposes of exploration ceased in the exploratory well, calculated on a year-by-year basis and aggregated.

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Total tax

- (4C) In **subsection (4)(a)**, **total tax** is the amount of income tax paid by—
(a) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated;
(b) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated.

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- (6) In section LT 1(5), replace “subsection (4)(b)” with “**subsections (4B)(b) and (4C)**”.
(7) In section LT 1(6), replace “subsection (4)” with “**subsections (4B)(b) and (4C)**”.
(8) In section LT 1(7), replace “subsections (4)(b)” with “**subsections (4B)(b), (4C)**”.

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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—:
- (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: 5
- (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 10
- (3) **Subsections (1) and (2)** apply for the 2020–21 and later income years.
- 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)** 15
- In section LY 10, list of defined terms,—
- (a) replace “research and development activities” with “research and development activity”:
- (b) replace “research and development tax credits” with “research and development tax credit”. 20
- 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* 25
- (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 30
- (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— 35

- (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 5
- (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. 10
- (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”.
- 96 Section MX 3 amended (Wage intensity criteria) 15**
- (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)”. 20
- 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) 25**
- (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. 30
- (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))”. 35
- (4) In section OB 4(4)(a), replace “paragraph (b)” with “**paragraph (c)**”.

- (5) Replace section OB 4(4)(b) with:
- (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),— 5
- (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 10
- (iii) the date referred to in the opening words of this paragraph, if the requirements of neither **subparagraph (i)** nor **subparagraph (ii)** are met. 15
- 99 Section OB 32 amended (ICA refund of income tax) 20**
- (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)”. 25
- (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))”. 30
- (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: 35
- (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.

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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)
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**”.

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- (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)”.
- (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
- (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
- (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)

- (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).
- (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))”.

- (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—
- (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
- (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**”.
- (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))”.
- (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
- (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	
	(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.	5
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:	
(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.	10
(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)”.	15
(4)	Replace section OK 12(6), other than the heading, with:	
(6)	The debit date for—	20
(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	25
(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	30
(iii)	the date of the transfer under section 173L of that Act, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.	35

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)
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)

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- (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”.
- (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:
- (c) a refund of income tax or provisional tax paid to a local authority. 5
- (2) In section OP 30, list of defined terms, insert “local authority”.
- (3) **Subsection (1)** applies for the 2022–23 and later income years.
- 109B Section OP 31 amended (Consolidated ICA amount applied to pay other taxes)**
- (1) Replace section OP 31(1), other than the heading, with: 10
- (1) A consolidated imputation group has an imputation debit for—
- (a) an amount of overpaid income tax applied to pay an amount due under the Inland Revenue Acts;
- (b) an increased amount of tax as described in section RP 17B(3) (Tax pooling accounts and their use) applied to pay an amount due under the Inland Revenue Acts other than income tax. 15
- (2) **Subsection (1)** applies for the 2008–09 and later income years. However **subsection (1)** does not apply if a person has taken a tax position ignoring this section before the start of the 2020–21 income year.
- 110 Section RC 35B amended (Treatment of overpaid provisional tax instalments calculated using AIM method)** 20
- 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)** 25
- (1) 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”.
- (2) **Subsection (1)** applies to the 2022–23 and later income years.
- 112 Section RC 40 amended (Some definitions)** 30
- (1) In section RC 40, definition of **small-business person**, paragraph (a), after “partnership”, insert “or as the owner of a look-through company”.
- (2) **Subsection (1)** applies to the 2019–20 and later income years.
- 113 Section RD 5 amended (Salary or wages)**
- Replace section RD 5(1)(c)(iv) with: 35
- (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)

- (1) Replace section RD 45 with:

RD 45 Unclassified benefits

Liability limited

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

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—

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- (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

- (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.

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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—

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- (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

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- (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.

Categories

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

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- (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:

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

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- (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.

Period longer or shorter than income year

- (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
- (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.

Reasons for difference

- (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—
- (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.

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

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

114B Section RD 50 amended (Employer’s liability for attributed benefits)

- (1) Replace section RD 50(5) with:

Further options

- (5) Instead of calculating FBT under subsections (2) and (4), an employer may choose to—
- (a) pay FBT, for each employee to whom they are required to attribute the value of a fringe benefit under sections RD 47 and RD 49, at the rate of 63.93% on the taxable value of the fringe benefits attributed to the employee; or
- (b) apply **subsection (6)**.

*Requirements for employers who make election referred to in **subsection (5)(b)***

- (6) An employer who makes an election under **subsection (5)** to apply this subsection must—
- (a) pay FBT at the rate of 49.25% on the taxable value of the fringe benefits attributed to the employee, for each employee to whom all of the following apply:
 - (i) the employee is an employee to whom the employer is required to attribute the value of a fringe benefit under sections RD 47 and RD 49; and
 - (ii) the taxable value of all fringe benefits for the employee, as determined under section RD 51, is \$13,400 or less; and
 - (iii) the cash pay of the employee, as determined under that section, is \$160,000 or less; and
 - (b) for each other employee to whom the employer is required to attribute the value of a fringe benefit under sections RD 47 and RD 49,—
 - (i) pay FBT at the rate of 63.93% on the taxable value of the fringe benefits attributed to the employee, if **subparagraph (ii)** does not apply; or
 - (ii) pay FBT at the rate of 49.25% on the taxable value of the fringe benefits attributed to the employee, if the employee’s all-inclusive pay, calculated using the formula in section RD 51(2), is less than \$129,681 and the employer chooses 49.25%.

(2) **Subsection (1)** applies for the 2021–22 and later income years.

114C Section RD 60 amended (Close company option)

(1) In section RD 60(3)(b), replace “the total pay of each employee” with “their FBT liability”.

(2) **Subsection (1)** applies for the 2021–22 and later income years.

114D Section RD 61 amended (Small business option)

In section RD 61(3)(b), replace “the total pay of each employee” with “their FBT liability”.

114E Section RD 63 amended (When employer stops employing staff)

In section RD 63(3), words before the paragraphs, replace “section RD 50(2) or RD 53(3)” with “sections RD 50 and RD 53”.

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

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 5
- (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. 10

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)

(1A) In section RE 2(5)(a)(i), replace “either of sections CW 9 and CW 10” with “section CW 9, CW 10, or **CW 10B**”. 15

(1AB) In section RE 2(5)(a)(ii), replace “resident):” with “resident); or”.

(1AC) After section RE 2(5)(a)(ii), insert:

(iib) under section CW 39 (Local authorities):

- (1) In section RE 2(5)(g), delete “, other than a dividend referred to in section CW 10(3)”. 20
- (2) **Subsections (1A), (1AB), (1AC), and (1)** ~~applies~~ apply 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) 25

(1) Replace section RE 10C(7)(a)(ii) with:

(ii) a custodial institution that is not resident in New Zealand; and

(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). 30

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

118 Section RE 21 amended (Basis of payment of RWT) 35

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)**
- (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):
- 120 Section RM 1 amended (What this subpart does)**
- (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*
- (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.
- 122 Section RM 4 amended (Overpayment on amended assessment)**
- (1) After section RM 4(1), insert:
- Provision of ancillary tax return treated as assessment*
- (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.
- 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”.

124 Section RP 17 amended (Tax pooling intermediaries)

- (1) 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). 5
- (2) **Subsection (1)** applies to the 2019–20 and later income years.

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)**. 10
- (2) Replace section RP 17B(4)(a) and (b) with:
- (a) on a day that—
- (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: 15
- (b) on a day that—
- (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: 20
- (3) Repeal section RP 17B(9).
- (4) Repeal section RP 17B(10). 25
- (5) Repeal section RP 17B(11).
- (6) After section RP 17B(8), insert:
- When funds may be used to meet new liability for tax or interest*
- (12) **Subsection (13)** applies when—
- (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 30
- (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 35
- (c) the person makes a voluntary disclosure of the new liability; and

<p>(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</p> <p>(e) the person makes the voluntary disclosure referred to in paragraph (c)—</p> <p style="padding-left: 20px;">(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</p> <p style="padding-left: 20px;">(ii) before the date of the return referred to in paragraph (d); and</p> <p style="padding-left: 20px;">(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.</p> <p><i>Commissioner’s discretion to allow use of funds to meet new liability</i></p> <p>(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.</p> <p><i>Categories of tax that may be included in new liability</i></p> <p>(14) The categories of tax that may be included in a new liability for the purposes of subsection (12) are—</p> <p style="padding-left: 20px;">(a) ESCT:</p> <p style="padding-left: 20px;">(b) FBT:</p> <p style="padding-left: 20px;">(c) further income tax:</p> <p style="padding-left: 20px;">(d) GST:</p> <p style="padding-left: 20px;">(e) imputation penalty tax:</p> <p style="padding-left: 20px;">(f) income tax:</p> <p style="padding-left: 20px;">(g) NRWT:</p> <p style="padding-left: 20px;">(h) PAYE:</p> <p style="padding-left: 20px;">(i) RSCT:</p> <p style="padding-left: 20px;">(j) RWT.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>
<p>126 Section RP 19 amended (Transfers from tax pooling accounts)</p>	
<p>(1) Replace section RP 19(3)(a) with:</p> <p style="padding-left: 20px;">(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:</p> <p>(2) Subsection (1) applies to the 2019–20 and later income years.</p>	<p>35</p>

127 Section YA 1 amended (Definitions)

(1) This section amends section YA 1.

(1B) Insert, in appropriate alphabetical order:

5-year test land is defined in **section CB 6A(2)** (Disposal within 10 years: bright-line test for residential land)

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(1C) Insert, in appropriate alphabetical order:

10-year test land is defined in **section CB 6A(2)** (Disposal within 10 years: bright-line test for residential land)

(1CB) Insert, in appropriate alphabetical order:

boarding establishment means premises used in a business of supplying accommodation, if the premises are managed by the business and have—

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(a) at least 10 boarding rooms that are not self-contained; and

(b) shared living facilities available, as appropriate, to all residents

(1CC) Insert, in appropriate alphabetical order:

bright-line acquisition date means the relevant bright-line acquisition date described in sections **CB 6A to CB 6F, and CZ 39** (which relate to the bright-line test for residential land)

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(1CD) In the definition of **bright-line date**, replace “**bright-line date**” with “**bright-line disposal date and bright-line date**”.

(1D) In the definition of **bright-line period**, paragraph (a), replace “**CB 6A(1) to (5)**” with “**CB 6A(3) to (7D)**”.

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(1DB) In the definition of **capital contribution**, paragraph (a),—

(a) in the words before the subparagraphs, before “**CG 8,**”, insert “**CC 1B,**”;

(b) in subparagraph (iii), delete “(Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence)”.

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(1E) Insert, in appropriate alphabetical order:

code compliance certificate is defined in **section DH 5** (Key terms)

(2) Insert, in appropriate alphabetical order:

~~**cryptoasset** means a digital representation of value that—~~

~~(a) exists in—~~

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~~(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~~

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~~(b) is designed to be fungible~~

- cryptoasset** means a digital representation of value that exists in—
- (a) 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 5
 - (b) another application of the same technology performing an equivalent function
- (2B) Insert, in appropriate alphabetical order:
- cryptocurrency** means a cryptoasset that is not a non-fungible token
- (3) Replace the definition of **date of acquisition** with: 10
- ~~**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:~~ 15
 - ~~(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~~
- date of acquisition** 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 20
- (4) In the definition of **decommissioning**,—
- ~~(a) paragraph (b), words before the subparagraphs, before “plugging”, insert “permanently”;~~
 - (b) repeal paragraph (b)(ii): 25
 - ~~(c) paragraph (d)(i), before “plugged and abandoned”, insert “permanently”;~~
 - (d) paragraph (d)(i), delete “, exploratory well,”.
- (4B) Insert, in appropriate alphabetical order:
- disallowed residential property** is defined in **section DH 5 (Key terms)**
- (5) ~~In the definition of **dwelling**, paragraph (e), 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)”.~~ 30
- (5) In the definition of **dwelling**,
- (a) paragraph (b)(ii), replace “boardinghouse” with “boarding establishment”; 35
 - (b) 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)”.
- (6) In the definition of **election day worker**,—
- (a) paragraph (a), replace “a Deputy Returning Officer, poll clerk,” with “an electoral official,”: 5
- (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”.
- (6B) Insert, in appropriate alphabetical order:
- employee accommodation**— 10
- (a) means property that the person, or a company in the same wholly-owned group of companies as the person, provides to their employees or other workers for accommodation in connection with their employment or service:
- (b) does not include accommodation provided to employees or other workers who are associated with the person, unless it is necessary for the person to provide the accommodation because of the nature or remoteness of a business carried on by them 15
- (7) In the definition of **employer**, repeal paragraph (d).
- (7B) Insert, in appropriate alphabetical order: 20
- excepted residential land** is defined in **section DH 5** (Key terms)
- (7C) Repeal the definition of **excluded day**.
- (7D) Insert, in appropriate alphabetical order:
- exempted predominant main home day** is defined in **section CB 16A(1B)** (Key term: exempted predominant main home day) 25
- (7DB) Insert, in appropriate alphabetical order:
- exempt main home** means an exempt main home described in **section CB 16A(1)** (Main home exclusion)
- (7E) Insert, in appropriate alphabetical order:
- exempt main home period limit** is defined in **section CB 16A(1C)** (Key term: exempt main home period) 30
- (7F) Insert, in appropriate alphabetical order:
- exempt Māori company** is defined in **section DH 5** (Key terms)
- (7FB) In the definition of **finance lease**, paragraph (c)(iii), replace “NZIAS 17” with “NZ IFRS 16”. 35
- (7G) Insert, in appropriate alphabetical order:
- grandparented residential interest** is defined in **section DH 7** (Grandparented residential interest)

- (7GB) Insert, in appropriate alphabetical order:
grandparented structure is defined in **section EZ 23BD(2)** (Meaning of grandparented structure) for the purposes of that section
- (7H) Insert, in appropriate alphabetical order:
grandparented transitional loan is defined in **section DH 5** (Key terms) 5
- (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: 10
 (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— 15
 (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: 20
 (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 25
- (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)
- (10B) Insert, in appropriate alphabetical order:
interposed residential property holder is defined in **section DH 5** (Key terms) 30
- (10C) Insert, in appropriate alphabetical order:
interposed residential property percentage is defined in **section DH 6** (Interposed residential property percentage)
- (10D) Insert, in appropriate alphabetical order:
main home person is defined in **section CB 16A(1D)** (Key term: main home person) 35

(10E) Insert, in appropriate alphabetical order:

Māori excepted land—

(a) means—

(i) Māori customary land, Māori freehold land, or Crown land reserved for Māori, or land set aside as a Māori reservation, as the relevant terms are defined in Te Ture Whenua Maori Act 1993: 5

(ii) land provided as a residence to a shareholder or beneficiary of a Maori authority or of an entity eligible to become a Maori authority, to the extent to which the land is either owned in whole or in part, directly or indirectly by that Maori authority or entity (**owner A**), or owned in whole or in part, directly or indirectly by a Maori authority or an entity eligible to become a Maori authority that is a co-owner of the land with owner A: 10

(iii) land, owned directly or indirectly by a Maori authority or an entity eligible to become a Maori authority, to the extent to which the land is from a Treaty of Waitangi settlement relating to that Maori authority or entity, including by exercising a right of first refusal under such a settlement: 15

(b) does not include land described in **paragraph (a)(iii)**, if the land is held as lessee, and the lessee is not owned, directly or indirectly, by the relevant Maori authority or the relevant entity eligible to become a Maori authority 20

(10F) Insert, in appropriate alphabetical order:

new build land is defined in **section DH 5** (Key terms)

(11) In the definition of **nominal share**, replace “forgiven” with “remitted”. 25

(12) Insert, in appropriate alphabetical order:

non-eligible assets is defined in **section EM 8** (Some definitions)

(12B) Insert, in appropriate alphabetical order:

non-fungible token means a cryptoasset that contains unique distinguishing identification codes or metadata 30

(13) ~~In the definition of **principal settlor**, replace “5 years” with “10 years”.~~

(13) Replace the definition of **principal settlor** with:

principal settlor means, for a trust, a settlor whose settlements for the trust are the greatest or greatest equal, by market value

(14) In the definition of **proportional debt ratio**, replace “forgiven” with “remitted”. 35

(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”.
- (16B) Insert, in appropriate alphabetical order:
residential land company is defined in **section DH 5** (Key terms)
- (16C) Insert, in appropriate alphabetical order: 5
residential land wholly-owned group member is defined in **section DH 5** (Key terms)
- (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)”. 10
- (17B) Insert, in appropriate alphabetical order:
student accommodation—
(a) means commercial boarding premises used to provide accommodation for students enrolled at a registered school, or premises described in section 5B of the Residential Tenancies Act 1986; and 15
(b) includes premises described in section 5B of the Residential Tenancies Act 1986 even if they are used mainly for the accommodation of students, but not exclusively for the accommodation of students
- (17C) **Subsection (1DB)** applies to an amount derived on or after 1 April 2015.
- (17D) **Subsection (7FB)** applies for income years beginning on or after 1 January 2019. 20
- (17E) **Subsection (7GB)** applies for the 2020–21 and later income 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
 (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: 30
 (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: 35
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(b) for other purposes, for the 2021–22 and later income years.

(18B) Subsection (5)(a) applies for the 2022–23 and later income years.

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

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**)”.

(2) After section YC 13(1)(d), insert: 10

(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”.

(4) After section YC 13(1), insert: 15

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

(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. 25

(5) Replace the heading for section YC 13(2) with “*Modified look-through rule for transitional ownership of spun-out subsidiary*”. 30

(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”.

(7) In section YC 13(2)(a), replace “interest” with “spun-out subsidiary interest”. 35

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.

131B New Schedule 15 inserted (Excepted residential land)

After Schedule 14, insert the Schedule 15 set out in **Schedule 1A** of this Act. 5

132 Schedule 21B amended (Expenditure or loss for research and development tax credits)

(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.”. 10

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

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

(1) This section amends schedule 32.

(2A) Replace “Child Rescue Charitable Trust” with “Child Rescue Charitable Aid Trust”. 15

(2) Replace “UN Women National Committee Aotearoa New Zealand Incorporated” with “UN Women Aotearoa New Zealand Incorporated”.

(3) Insert, in appropriate alphabetical order:

(a) “Community Transformation Trust”: 20

(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”: 25

(g) “Missio Benevolent Society”:

(h) “Prabh Aasra Trust”:

(i) “Reemi Charitable Trust”:

(j) “Talalelei Life Futures Fund”:

(k) “YWAM Ships Aotearoa Limited”. 30

(4) Delete—

(a) “Books for Cambodia Trust”:

(b) “Channel 2 Cyclone Aid for Samoa”:

(c) “Cyclone Ofa Relief Fund”:

(d) “Cyclone Val Relief Fund”: 35

- (e) “Kyrgyzstan New Zealand Rural Trust”:
 - (f) “L Women of Africa Fund”:
 - (g) “The Band Aid Box”:
 - (h) “The Serious Road Trip Charitable Trust”:
 - (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. 5

Part 4

Amendments to other enactments

Amendments to Tax Administration Act 1994 10

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).
- (2) In the definition of **civil penalty**, after paragraph (cc), insert: 15
 - (cd) a penalty under **section 141EE**; or
- (3) Insert, in appropriate alphabetical order:
 - electronic sales suppression tool** means a software program, device, tool, or other thing, part of a thing, or combination of things or parts,—
 - (a) that can hide, conceal, modify, falsify, destroy, or prevent the creation of a record that— 20
 - (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
 - (b) the use of which would lead to a reasonable conclusion that 1 of its principal functions is to facilitate the concealment, modification, falsification, destruction, or prevention of the creation of a record. 25
- (4) In the definition of **employment income information**, after “80D,”, insert “**108AB**, 108B,”.
- (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:
 - (gc) lottery duty: 35

- (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”.
- 135B Section 7AA amended (Authorisation to make payments under small business cashflow loan scheme)** 5
- In section 7AA(4), after “the person”, insert “, or an associated person who receives the benefit of the payment other than as adequate consideration for a supply of goods or services.”.
- 135C Section 7AAB amended (Authorisation to make COVID-19 support payments)** 10
- In section 7AAB(7), after “the person”, insert “, or an associated person who receives the benefit of the grant, other than as adequate consideration for a supply of goods or services”.
- 136 Section 14 amended (Modes of communication: general provisions)** 15
- 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)**
- (1) In the heading to section 14F, replace “**post, fax, or electronic means**” with “**post, or electronic means**”. 20
- (2) Repeal section 14F(3)(b).
- (3) Repeal section 14F(8).
- 138 Section 14G amended (Contact addresses)**
- Repeal section 14G(1)(d). 25
- 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):
- (2) In section 16C(3)(a),— 30
- (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”.
- (3) After section 16C(3)(b), insert: 35

- (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.

139B Section 17B amended (Commissioner may require information or production of documents) 5

In section 17B(4), replace “this section,” with “this section and section 17L,”.

139C Section 22D amended (Key terms)

- (1) After section 22D(3)(iii), insert:

(iiib) a payment under the wage subsidy scheme defined in section 7AA(6): 10

(iiic) a payment under the leave support scheme made by the Ministry of Social Development on behalf of the Crown in relation to leave taken as a consequence of COVID-19:

(iiid) a payment under the short-term absence scheme made by the Ministry of Social Development on behalf of the Crown in relation to absence from work as a consequence of COVID-19: 15

- (2) Subsection (1) applies for the 2021–22 and later income years.

140 Section 25MB amended (Information from custodial institutions)

- (1) Replace section 25MB(8)(a)(ii) with: 20

(ii) a custodial institution that is not resident in New Zealand; and

- (2) After section 25MB(8), insert:

When branches located in New Zealand

- (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). 25

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

141 New section 25NB inserted (De minimis filing requirements for certain persons) 30

- (1) After section 25N, insert:

25NB De minimis filing requirements for certain persons

When this section applies

- (1) This section applies when a person is required to withhold an amount of tax under— 35

(a) section RE 21(3) of the Income Tax Act 2007:

<p>(b) section RF 13(2) of that Act:</p> <p>(c) section 86KA of the Stamp and Cheque Duties Act 1971.</p> <p><i>When this section does not apply</i></p> <p>(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.</p> <p><i>Delivery of investment income information</i></p> <p>(3) Despite sections 25E, 25F, and 25H, the person may deliver the investment income information for the payment to the Commissioner—</p> <p>(a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and</p> <p>(b) for the period in the tax year from 1 April to 30 September, by 20th October after the end of the period; and</p> <p>(c) for the period in the tax year from 1 October to 31 March, by 20th April after the end of the period.</p> <p>(2) Subsection (1) applies for the 2022–23 and later income years.</p> <p>142 New section 33F inserted (Research and development tax credits: extension of time for 2019–20 income year)</p> <p>After section 33E, insert:</p> <p>33F Research and development tax credits: extension of time for 2019–20 income year</p> <p>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.</p> <p>143 Section 43B amended (Non-active trusts may be excused from filing returns)</p> <p>(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”.</p> <p>(2) Replace section 43B(1) and (2) with:</p> <p>(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—</p> <p>(a) the trust or estate is non-active throughout the income year corresponding to the tax year; and</p> <p>(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</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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- (c) the person has provided to the Commissioner, in a form approved by the Commissioner,—
- (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 5
- (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—
- (a) has not derived any income; and 10
- (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,—
- (i) give rise to income in any person’s hands; or 15
- (ii) give rise to fringe benefits to an employee or to a former employee.
- (3) In section 43B(3),—
- (a) words before the paragraphs, replace “trust” with “trust or estate”:
- (b) paragraph (a),— 20
- (i) replace “trustees” with “persons”:
- (ii) replace “trust” with “trust or estate”:
- (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),— 25
- (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”:
- (c) replace “that the trust” with “that the trust or estate”:
- (d) replace “a non-active trust” with “non-active”. 30
- (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”.

143B Section 54C amended (Information in relation to payment of RLWT)

- (1) In section 54C(1), words before the paragraphs, replace “within 10 years” with “within 10 years or 5 years, as the case may be.”. 35

- (2) In section 54C(1)(b), replace “their date of acquisition of the land” with “the latest date on which they acquire the estate or interest in the residential land”.

143C Section 59BA amended (Annual return for trusts)

- (1) Replace section 59BA(2)(d) with:

- (d) the amount, and nature, of each distribution that— 5
 (i) is not a distribution, other than of money, that is minor and incidental to the activities of the trust; and
 (ii) is made by the trustee in the income year:
 (db) the name, date of birth, jurisdiction of tax residence, and tax file number or taxpayer identification number, of the beneficiary who receives a distribution referred to in **paragraph (d)**: 10

- (2) Replace section 59BA(3)(b) with:

- (b) the trust is a foreign trust:

- (3) **Subsections (1), (2), and (3)** apply for the 2021–22 and later income years.

144 Section 68CB amended (Research and development tax credits: general approval) 15

- (1) In section 68CB(2), replace “income year (the **first income year**) and up to 2 further consecutive income years” with “income year (the **first income year**), the income year immediately before (the **prior year**), and up to 2 income years immediately after”. 20

- (2) In section 68CB(2), replace “the end of the first income year.” with “the end of the first income year. For a prior year, the Commissioner may only approve supporting research and development activities described in **section LY (5)(1)(ab)(i)** of the Income Tax Act 2007.”

- (3) After section 68CB(7), insert: 25

- (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. 30

- (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 35

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.

144B Section 68CC amended (Research and development tax credits: greater than \$2 million approval) 5

- (1) In section 68CC(3), replace “income year (the **first income year**) and up to 2 further consecutive income years” with “income year (the **first income year**), the income year immediately before (the **prior year**), and up to 2 income years immediately after”. 10
- (2) In section 68CC(3), replace “the end of the first income year (**application date**).” with “the end of the first income year (**application date**). For a prior year, the Commissioner may only approve supporting research and development activities described in **section LY 5(1)(ab)(i)** of the Income Tax Act 2007.”. 15

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

- (1) After section 68CE, insert:

68CF Research and development tax credits: extension of time for approvals ~~for 2020–21 income year~~ 20

- (1) 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.
- (2) The time for a person to make an application in relation to an approval under **section 68CB** for an income year is extended to the date that is 3 months after the date that the Commissioner notifies to the person the outcome of their application, for the income year, under section 68CC(4) if they make such an application, or such later date otherwise allowed by **section 68CB**. 25
- (2) **Subsection (1)** applies for the 2020–21 and later income years. 30

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

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

- (ii) sections 108A and 108B; or
(iii) sections **108AB** and 108B,— 35

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: 5
 - (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) 10

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: 15

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— 20
- (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: 25
 - (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. 30
- (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. 35

- 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:
- (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. 5
- 152 Section 113 amended (Commissioner may at any time amend assessments)**
- (1) In section 113(1), replace “sections 89N and 113D” with “section 89N”.
- (2) **Subsection (1)** applies for the 2019–20 and later income years.
- 153 Section 113A amended (Correction of certain errors in subsequent returns)** 10
- In section 113A(4),—
- (a) words before the paragraphs, after “assessment”, insert “or return, as applicable,”:
- (b) replace paragraph (b) with: 15
- (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.
- 153B Section 120KE amended (Provisional tax and rules on use of money interest)** 20
- (1) Replace section 120KE(1)(a) with:
- (a) they are required to calculate instalments under the standard methods described in section RC 5(2) and (3) of the Income Tax Act 2007 or they have no obligation to pay provisional tax for the tax year under section RC 3(3) of that Act; and 25
- (2) **Subsection (1)** applies for the 2022–23 and later income years.
- 153C Section 120KF repealed (Tolerance for provisional tax instalments)**
- (1) Repeal section 120KF.
- (2) **Subsection (1)** applies for the 2022–23 and later income years. 30
- 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,”.
- (2) In section 138E(1)(e)(iv), delete “108A,”. 35

- (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”. 5
- 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). 10
 (2) **Subsection (1)** applies for penalties imposed after 1 April 2022.
- 159 Section 139B amended (Late payment penalty)**
 (1) Repeal section 139B(1B).
(1B) After section 139B(2B)(e), insert:
 (f) an electronic sales suppression penalty under **section 141EE**. 15
 (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. 20
- 159B Section 141 amended (Tax shortfalls)**
In section 141(2), replace “section 141AA(1).” with “sections 141AA(1) and **141EE(4)**.”
- 160 New section 141EE inserted (Penalty for acquiring or possessing electronic sales suppression tools)** 25
 After section 141ED, insert:
- 141EE Penalty for acquiring or possessing electronic sales suppression tools**
- (1) This section applies to a person who—
 (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 30

- (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.
- (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
- (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~~ liable to pay a single penalty in relation to all for all related 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.
- (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.

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.

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

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. 5
- (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— 10
- (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. 15

162B Section 142B amended (Due date for shortfall penalties)

After section 142B(2), insert:

- (3) A shortfall penalty that is an electronic sales suppression penalty under **section 141EE** is due and payable on the relevant date set out in subsection (1)(a), treating the electronic sales suppression penalty as if it were an amount of unpaid tax. 20

163 Section 143 amended (Absolute liability offences)

- (1) In the heading to section 143, after “offences”, insert “**and strict liability offences**”. 25
- (2) In section 143(1)(ba),—
- (a) replace “a tax invoice” with “taxable supply information”;
 - (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: 30
- (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. 35
- (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,—
- (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. 5
- (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.
- (7) **Subsection (2)** applies for taxable periods starting on or after 1 April 2023.
- 164 Section 143A amended (Knowledge offences)**
- (1) Repeal section 143A(1)(f). 10
 - (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**”.
 - (4) **Subsection (1)** applies for taxable periods starting on or after the day on which this Act receives the Royal assent.
 - (5) **Subsections (2) and (3)** apply for taxable periods starting on or after 1 April 2023. 15
- 165 New sections 143BB and 143BC inserted**
- After section 143B, insert:
- 143BB Manufacturing or supplying electronic sales suppression tools**
- (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**. 20
 - (2) A person commits an offence against this Act if they—
 - (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: 25
 - (b) knowingly provide a service to a person resident in New Zealand that includes the use of the suppression tool.
 - (3) A person who is convicted of an offence under **subsection (1) or (2)** is liable to a fine not exceeding \$250,000. 30
- 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

- (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. 5
- (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 10
- (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. 15
- (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. 20
- 166 Section 143D amended (Offences related to disclosure of certain information by persons other than revenue officers)** 25
- After section 143D(1)(a), insert:
- (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)** 30
- 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:
- (3) Subsection (2) does not apply for Part O of the Income Tax Act 2007. 35

168B Section 183ABA amended (Remission in circumstances of emergency event)

Replace section 183ABA(1)(a) with:

- (a) the taxpayer fails to make a payment required by a tax law (the **required payment**) on or before the due date for the required payment; and 5
- (ab) the failure is a consequence of an emergency event, declared in an Order in Council under this section, that significantly adversely affects the ability of the taxpayer to do either or both of—
- (i) make a reasonably accurate forecast, on 1 or more provisional tax instalment dates for a tax year, of the taxpayer’s residual income tax for the tax year; 10
- (ii) make the required payment on or before the due date for the required payment; and

169 Section 183ABAB amended (Remission of interest for taxpayers affected by COVID-19: general rules) 15

Replace section 183ABAB(4) with:

- (4) The time limit imposed by subsection (3)(b) may be extended by Order in Council—
- (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 20
- (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 25
- (ii) a class or classes of persons affected by the previous time limit and described in the Order in Council.

169B Section 183ABAC amended (Remission of interest on terminal tax for 2020–21 tax year for provisional taxpayers affected by COVID-19)

- (1) In the heading to section 183ABAC,— 30
- (a) replace “terminal tax” with “residual income tax”;
- (b) replace “2020–2021 tax year” with “2020–2021 or 2021–2022 tax year”.
- (2) In section 183ABAC(1), words before paragraph (a), replace “2020–21 tax year” with “2020–21 or 2021–22 tax year (the **affected tax year**)”. 35
- (3) In section 183ABAC(1)(a) and (b), replace “2020–21 tax year” with “affected tax year” in each place.

- (4) In section 183ABAC(1)(c)(i), replace “terminal tax” with “residual income tax”.
- (5) In section 183ABAC(1)(c) and (d), replace “2020–21 tax year” with “affected tax year” in each place.
- (6) In section 183ABAC(2), replace “between 31 March 2020 and the taxpayer’s terminal tax date for the 2020–21 tax year” with “between the 31 March before the affected tax year and the taxpayer’s terminal tax date for the affected tax year”. 5
- (7) In section 183ABAC(3)(b),—
- (a) replace “terminal tax” with “residual income tax”; 10
- (b) replace “2020–21 tax year” with “affected tax year”.
- (8) **Subsections (1)(b), (2), (3), (5), (6), and (7)** apply for the 2020–21 and 2021–22 tax years.
- 170 Section 183C amended (Cancellation of interest)**
- (1) Repeal section 183C(4B)(b). 15
- (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).
- (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”. 20
- (7) **Subsections (1), (2), and (3)** apply for statements of account issued by the Commissioner after 1 April 2022.
- 171 Section 225 amended (Regulations)**
- (1) Repeal section 225(1)(c) and (d).
- (2) Repeal section 225(2). 25
- 172 Section 225AA repealed (Regulations: co-operative dairy and marketing companies)**
- Repeal section 225AA.
- 173 Schedule 7 amended (Disclosure rules)**
- (1) In schedule 7, part C, subpart 1, replace clause 23B(2) to (5) with: 30
- (2) Despite subclause (1), the Commissioner may disclose the information only if the Commissioner considers that—
- (a) the information is readily available; and
- (b) it is reasonable and practicable to disclose the information; and
- (c) it is not undesirable to disclose the information; and 35

- (d) the information is reasonably necessary for the purpose referred to in subclause (1).
- (2) Repeal schedule 7, part C, subpart 1, clause 36.
- ~~(3) Repeal schedule 7, part C, subpart 2, clauses 41 and 42.~~
- (4) Subsection (2) is repealed on 1 April 2025.** 5
- 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:
- (i) a schedular payment: 10
- 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)**
- In section 40AA, definition of **election period**,— 15
- (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 20
- ~~(b) paragraph (c) (as inserted by the Child Support Amendment Act 2021); replace “after the end of” with “during or after”.~~
- (b) replace paragraph (c) (as inserted by the Child Support Amendment Act 2021) with:**
- (c) if notice of the election is given during or after the child support year under section 40(8), the period that—** 25
- (i) starts on the later of the first day of that child support year and the first day of the month in which the formula assessment begins;**
- and**
- (ii) ends on the last day of that child support year** 30
- 177 Section 40 amended (Estimated income)**
- (1) After section 40(4)(d), insert:
- (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 35

- (2) In section 40(8) (as inserted by the Child Support Amendment Act 2021), replace “after the end of” with “during or after”.
- (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) 5

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 later of the first day of the child support year and the first day of the month in which the formula assessment begins; or 10

179 Section 81A replaced (Amendments of assessments arising from living circumstances existing at time initial assessment made) 15

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 20

- (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. 25
- (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— 30
 - (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— 35
 - (a) the recipient has provided to the Commissioner such supporting documentation as the Commissioner requires; and

- (b) the Commissioner is satisfied that—
- (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)** 10
- (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,”. 15
- (3) In section 87A(3)(f), replace “notification).” with “notification); or”.
- (4) After section 87A(3)(f), insert:
- (g) the Commissioner has made a determination under Part 6A in relation to an application under section 96B to which the 4-month time limit in section 96BA applies. 20
- 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)** 25
- 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— 30
 - (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)** 35
- 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:
 - (ba) a penalty (as defined in section 135) imposed in relation to child support: 5
 - (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**. 10
 - (2) Repeal Schedule 1, Part 4, clause 14.
 - (2B) In Schedule 1, Part 4, after clause 16, insert:
- 16A Amendment to section 44 (End-of-year reconciliation)**
- (1) The amendment to section 44 made by section 16 of the 2021 Amendment Act applies only in relation to child support in respect of child support years ending after commencement of section 16 of the 2021 Amendment Act. 15
 - (2) The old section 44 continues to apply in relation to child support in respect of child support years ending before commencement of section 16 of the 2021 Amendment Act.
 - (3) In Schedule 1,— 20
 - (a) insert the Part set out in ~~the~~ **Schedule 1** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.
- 186 Schedule 3 amended (Expenditure on children)**
- In Schedule 3, table, heading above the fifth to seventh columns, delete “, or the oldest 3,”. 25

Amendments to KiwiSaver Act 2006

- 187 Amendments to KiwiSaver Act 2006**
- Sections 188 to 197B** amend the KiwiSaver Act 2006.
- 188 Section 4 amended (Interpretation)**
- (1) This section amends section 4(1). 30
 - (2) Insert, in appropriate alphabetical order:

assessment has the same meaning as in section 3(1) of the Tax Administration Act 1994
 - (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

188B Section 59A amended (When this subpart applies)

After section 59A(b), insert:

(bb) the rule in section 33 allowing opt-in has been applied prior to 1 July 2019 to a person who, at the time, did not meet the requirements of section 33(a): 5

188C Section 59B amended (Initial back-dated validation)

- (1) In section 59B(2), words before the paragraphs, replace “the automatic enrolment rules,” with “the automatic enrolment rules, the age requirement for the application of the opt-in rule in section 33,”. 10
- (2) In section 59B(2)(b), words before the subparagraphs, replace “section 59A(b)(i),” with “section 59A(b)(i), **(bb)**,”.

188D Section 59C amended (Confirmed back-dated validation)

- (1) In section 59C(1)(a), replace “section 59A(b)(i),” with “section 59A(b)(i), or the opt-in rule in section 33 was applied to a person because of the mistake described in **section 59A(bb)**,”. 15
- (2) Repeal section 59C(1)(a)(i).
- (3) In section 59C(2)(b), replace “section 59A(b)(i).” with “section 59A(b)(i); and”, and insert: 20
- (c) in relation to whom no mistake described in **section 59A(bb)** was made.

188E Section 59D amended (No confirmed back-dated validation)

In section 59D(1)(a), replace “section 59A(b)(i),” with “section 59A(b)(i), or the opt-in rule in section 33 was applied to a person because of the mistake described in **section 59A(bb)**,”. 25

189 Section 80 amended (Refund by Commissioner of amounts paid in excess of required amount of deduction or if employee opts out)

After section 80(2), insert:

(3) This section is subject to **section 91B**. 30

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:

(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

193 New cross-heading and section 91B inserted

After section 91, insert:

Time bar for refunding contributions

91B Time bar for refunding contributions

- (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—
- (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
- (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—

- (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.

- (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
- 197B Schedule 1 amended (KiwiSaver scheme rules)**
In schedule 1, clause 4(6), in the definition of **grandparented member**, paragraph (b), replace “them.” with “them; and” and insert:
(c) does not include a person who was of New Zealand superannuation qualification age before 1 July 2019. 20

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),— 25
(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),— 30
(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 Unclaimed Money Act 1971

200B Amendments to Unclaimed Money Act 1971

- (1) This section amends the Unclaimed Money Act 1971.
- (2) In section 8(5)(c), words before the subparagraphs, replace “the date on which this Act receives the Royal assent” with “30 March 2021”. 5
- (3) In section 8(5)(c)(ii), replace “the date on which the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 receives the Royal assent” with “30 March 2021”.

***Amendments to Taxation (KiwiSaver, Student Loans, and Remedial Matters)
Act 2020*** 10

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

- (1) This section amends the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020.
- (2) Repeal the following provisions: 15
- (a) section 2(37):
- (b) section 235:
- (c) section 239(3).

Amendment to Child Support Amendment Act 2021

201B Amendment to Child Support Amendment Act 2021 20

- (1) This section amends the Child Support Amendment Act 2021.
- (2) In section 15(2), new section 40(3)(c)(ii), replace “taxable income” with “income”.

Revocation of Co-operative Dairy Companies Income Tax Regulations 1955

- 202 Co-operative Dairy Companies Income Tax Regulations 1955 revoked** 25
- Revoke the Co-operative Dairy Companies Income Tax Regulations 1955.

***Revocation of Cooperative Milk Marketing Companies Income Tax
Regulations 1960***

- 203 Cooperative Milk Marketing Companies Income Tax Regulations 1960** 30
- revoked**
- Revoke the Cooperative Milk Marketing Companies Income Tax Regulations 1960.

*Revocation of Cooperative Pig Marketing Companies Income Tax
Regulations 1964*

**204 Cooperative Pig Marketing Companies Income Tax Regulations 1964
revoked**

Revoke the Cooperative Pig Marketing Companies Income Tax Regulations 1964. 5

Schedule 1A
New Schedule 15 inserted into Income Tax Act 2007

s 131B

Schedule 15
Excepted residential land

5

s DH 5

1. Business premises, except if the business premises—
 - (a) are used or available for use in a business of supplying accommodation; and
 - (b) are not land described in **clause 7**.
2. Farmland, including any place configured as a residence or abode, whether or not it is used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place. 10
3. A hospital, convalescent home, nursing home, or hospice.
4. A boarding establishment.
5. A hotel, motel, inn, hostel, or camping ground. 15
6. A rest home or retirement village.
7. For the relevant person (**person A**), land that has been used predominantly for a place configured as a residence or abode, including any appurtenances belonging to or enjoyed with the place, if that place is the main home for 1 or more of the following people: 20
 - (a) person A;
 - (b) a beneficiary of a trust, if person A is a trustee of the trust and—
 - (i) a principal settlor of the trust does not have a main home; or
 - (ii) if a principal settlor of the trust does have a main home, the place is their main home. 25
8. Student accommodation.
9. For the relevant person, employee accommodation.
10. Māori excepted land.

Schedule 1

New Part 56 inserted into Schedule 1 of Child Support Act 1991

s 185(3)

Part 56

Provisions relating to Taxation (Annual Rates for 2021–22, GST, and
Remedial Matters) Act 2021~~23~~24 Interpretation in this Part

In this Part,—

~~2021~~2022 Act means the Taxation (Annual Rates for 2021–22, GST, and
Remedial Matters) Act 2021**commencement**, in relation to any provision of the ~~2021~~2022 Act, means the
commencement of that provision;**old**, in relation to a provision, means the provision as if the amendments made
to the provision by the Child Support Amendment Act 2021 and the 2022 Act
had not been made.~~25~~ Amendment to section 44 (End-of-year reconciliation)(1) The amendment to section 44 made by **section 178** of the 2022 Act applies
only in relation to child support in respect of child support years ending after
commencement of **section 178** of the 2022 Act.(2) The old section 44 continues to apply in relation to child support in respect of
child support years ending before commencement of **section 178** of the 2022
Act.~~24~~26 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~~2022 Act) applies on
and after commencement, including if the assessment begins, was made, or
both, before commencement of **section 179** of the ~~2021~~2022 Act.~~25~~27 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~~2022 Act
apply in respect of all child support years, whether ending before commence-
ment or on or after commencement of **section 180** of the ~~2021~~2022 Act.~~26~~28 Amendment to section 152B (Offsetting child support payments)The amendment to section 152B made by **section 183** of the ~~2021~~2022 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.

Legislative history

8 September 2021
23 September 2021

Introduction (Bill 65–1)
First reading and referral to Finance and Expenditure Committee