

House of Representatives

Supplementary Order Paper

Thursday, 14 July 2011

Taxation (Tax Administration and Remedial Matters) Bill

Proposed amendments

Hon Peter Dunne, in Committee, to move the following amendments:

Clause 2

New subclause (1B): to insert, after *subclause (1)* (after line 6 on page 9), the following:

(1B) **Sections 95B and 97B** are treated as coming into force on 1 April 1995.

Subclause (3): to omit “**82, 83**” (line 9 on page 9) and substitute “**81B, 82, 83, 83B, 83C**”.

Subclause (6): to omit “**3B, 5, 6**” (line 16 on page 9) and substitute “**3B, 3D, 5, 6, 6E, 6F**”.

Subclause (6): to omit “**22I**” (line 19 on page 9) and substitute “**22I, 22J**”.

Subclause (6): to omit “**32C**” (line 20 on page 9) and substitute “**32C, 32CC**”.

Subclause (6): to omit “**(3B), and (4)**” (line 21 on page 9) and substitute “**(3BAB), (3B), and (4)**”.

New subclause (6BA): to insert, after *subclause (6)* (after line 22 on page 9), the following:

(6BA) **Section 36(3BA)** is treated as coming into force on 1 January 2009.

New subclauses (7BB) and (7BC): to insert, after *subclause (7B)* (after line 7 on page 10), the following:

(7BB) **Sections 3BB, 4D, 7DB, 7DC, 7DD, 7DE, 7DF, and 12BB** are treated as coming into force on 4 September 2010.

(7BC) **Sections 14BA, 36(1BA) and 57DB** are treated as coming into force on 30 September 2010.

Subclause (9): to omit “**21, 24G, 39, 40(1), (2), (3), and (4)**” (line 13 on page 10) and substitute “**21, 21B, 24G, 39, 40(1), (2), (3), (3BAC), (3BAD), and (4)**”.

New subclause (9BA): to insert, after *subclause (9)* (after line 16 on page 10), the following:

(9BA) **Section 37B** is treated as coming into force on 1 May 2011.

Subclause (11): to omit “**36(3) and (5), and 41**” (lines 20 and 21 on page 10) and substitute “**32CB, 36(3) and (5), 40(3BA) and (3BAB), and 41**”.

New clause 3BB

To insert, after *clause 3B* (after line 34 on page 10), the following:

3BB New section CG 5B

After section CG 5, the following is inserted:

“CG 5B Receipts from insurance, indemnity, or compensation for interruption or impairment of business activities

“When this section applies

“(1) This section applies when a person receives an amount of insurance, indemnity, or compensation for an interruption or impairment of business activities resulting from an event.

“Income

“(2) The part of the insurance, indemnity, or compensation attributable to income that the person would have derived if not for the event is income of the person.

“Timing of income

“(3) The income is allocated to the earlier of—

“(a) the income year in which the amount is received:

“(b) the income year in which the amount is reasonably able to be estimated.

“Defined in this Act: amount, business, income, income year”.

New clause 3D

To insert, after *clause 3C* (after line 5 on page 11), the following:

3D New section CW 1B

After section CW 1, the following is inserted:

“CW 1B Treaty of Waitangi claim settlements: rights to take timber

“When this section applies

“(1) This section applies when a person’s right to take timber (the **old right**) is extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if—

“(a) the sole reason for the new rights replacing the old right is to facilitate a Treaty of Waitangi claim settlement process; and

“(b) the rights and obligations of the new rights are equivalent to the old right, ignoring differences that are solely for the reason in **paragraph (a)**.

“*Exempt income*

“(2) An amount under section CB 24(1)(b) (Disposal of timber or right to take timber) for the extinguishing of the old right, or for the granting of the new rights, is exempt income of the relevant person. The amount is not income under that section.

“*Exception*

“(3) **Subsection (2)** does not apply to an amount to the extent it is compensation paid, for the new rights replacing the old right, to the person who is granted the new right.

“*Relationship with section DP 9B*

“(4) **Section DP 9B** (Treaty of Waitangi claim settlements: rights to take timber) deals with the cost of the new rights for the person who is granted them.

“Defined in this Act: amount, exempt income, income, pay, person, right to take timber”.

New clause 4D

To insert, after *clause 4C* (after line 27 on page 12), the following:

4D New section CZ 23

After section CZ 22, the following is inserted:

“CZ 23 Insurance or compensation for buildings replaced as revenue account property affected by Canterbury earthquakes

“*When this section applies*

“(1) This section applies for a person and an income year (the **current year**) before the 2016–17 income year when the person,—

“(a) in or before the current year, receives insurance or other compensation for buildings (the **affected property**), each of which is revenue account property and, as a result of a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011 is rendered useless for the purpose of deriving income, and demolished or abandoned for later demolition, because of damage to the building or to the neighbourhood of the building; and

“(b) in the absence of this section, would have in or before the current year a total amount of income under section CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) from the insurance or compensation for the affected property that exceeds the total

- amount of deductions under section DB 23 (Cost of revenue account property) for the affected property; and
- “(c) plans in the current year to acquire property (the **replacement property**) replacing affected property and meeting the requirements of **subsection (4)**; and
- “(d) gives written notice to the Commissioner under **subsection (6)** in relation to the affected property.
- “Suspended recovery income*
- “(2) The amount of the excess (the **excess recovery**) referred to in **subsection (1)(a)** is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under **subsection (3)** that is attributed to an income year by **subsection (5)**.
- “Effect of purchase of replacement property*
- “(3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,—
- “(a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person’s expenditure on the replacement property, to the extent that it is less than or equal to the total amount of the income under section CG 6 for the affected property, is treated as being reduced by an amount calculated by multiplying the replacement cost by the excess recovery and dividing the result by the total amount of deductions under section DB 23 for the affected property; and
- “(b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under **paragraph (a)** for the purposes of section EA 2.
- “Requirements for replacement property*
- “(4) For an item of affected property, replacement property must be a building that is revenue account property—
- “(a) acquired in or before the person’s 2015–16 income year; and
- “(b) located in greater Christchurch as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011.
- “Amount remaining at end of 2015–16 income year or when person changes intentions, is liquidated, or becomes bankrupt*
- “(5) The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—

- “(a) the current year ends, if the current year is the 2015–16 income year:
- “(b) in the current year, the person decides not to replace the affected property:
- “(c) in the current year, the person goes into liquidation or becomes bankrupt.

“Notice of election for affected property

- “(6) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must give written notice to the Commissioner—
 - “(a) by the later of 31 January 2012 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and
 - “(b) if the current year is after the estimate year,—
 - “(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
 - “(ii) for the current year, by the date on which the return of income is filed for the current year.

“Contents of notice of election

- “(7) A notice under **subsection (6)** must—
 - “(a) describe the affected property; and
 - “(b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and
 - “(c) give the cost of the replacement property and the reduction under **subsection (3)** of that cost for the purposes of section EA 2; and
 - “(d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year.

“Relationship to section CG 6

- “(8) This section overrides section CG 6.
“Defined in this Act: amount, deduction, income, income year, notice, return of income”.

New clauses 6E and 6F

To insert, after *clause 6D* (after line 27 on page 15), the following:

6E New section DP 9B

After section DP 9, the following is inserted:

“DP9B Treaty of Waitangi claim settlements: rights to take timber*“When this section applies*

- “(1) This section applies when a person’s right to take timber (the **old right**) has been extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if **section CW 1B** (Treaty of Waitangi claim settlements: rights to take timber) applied to exempt income for the extinguishing of the old right.

“Cost of acquiring new rights

- “(2) The person who is granted the new rights is treated, for each new right, as having acquired the new right for a cost equal to the expenditure they incurred in relation to the old right, but only to the extent that the expenditure relates to the land covered by the new right and has not been deducted previously.

*“Defined in this Act: exempt income, land, person, right to take timber”.***6F Cost of timber**

- (1) After section DP 11(4), the following is inserted:
- “(4B) Subsection (2) does not apply if the amount of income of the person under section CB 24 would be exempt income under **section CW 1B** (Treaty of Waitangi claim settlements: rights to take timber) but for **section CW 1B(3)**.”
- (2) In section DP 11, in the list of defined terms, “exempt income” and “income” are inserted.

*New clauses 7DB to 7DF*To insert, after *clause 7D* (after line 2 on page 17), the following:**7DB What this subpart does**

In section EE 1(3)(d), “and EE 52(3)” is replaced by “EE 52(3), and **EZ 23B(7)** (Insurance or compensation for depreciable property replaced because affected by Canterbury earthquakes)”.

7DC Application of sections EE 48 to EE 52

In section EE 44(2)(c), “ended.” is replaced by “ended:” and the following is added:

- “(d) a person receives, for an item of property, an amount of insurance to which section **EZ 23B** (Insurance or compensation for depreciable property replaced because affected by Canterbury earthquakes) applies.”

7DD Consideration for purposes of section EE 44

- (1) The heading to section EE 45(8) is replaced by “*Irreparable damage or damage rendering building useless*”.
- (2) In the first sentence of section EE 45(8), “irreparable damage” is replaced by “affected item”.

7DE Events for purposes of section EE 44

Section EE 47(4) is replaced by the following:

“*Irreparable damage or damage rendering building useless*

- “(4) The third event is—
- “(a) the irreparable damage of an item of property that is not a building; or
 - “(b) the damage of an item of property that is a building, or of the neighbourhood of the building, causing the building to be—
 - “(i) useless for the purpose of deriving income; and
 - “(ii) demolished or abandoned for later demolition.”

7DF Effect of disposal or event

- (1) In section EE 48(1), in the words before paragraph (a), “for the income year in which the disposal or event occurs” is omitted.
- (2) In section EE 48(2), “, for the income year in which the disposal or the event occurs,” is omitted.
- (3) After section EE 48(2), the following is inserted:

“*Income year of depreciation recovery income*

“(2B) The person derives the depreciation recovery income in the income year that is the earliest income year in which the consideration can be reasonably estimated.”
- (4) The heading to section EE 48(3) is replaced by “*When subsection (2) does not apply*”.
- (5) Section EE 48(3)(a) is replaced by the following:

“(a) the building has been rendered useless for the purpose of deriving income, and demolished or abandoned for later demolition, as a result of damage to the building or to the neighbourhood of the building; and”.
- (6) Section EE 48(3)(b) is repealed.
- (7) Section EE 48(3)(c) is replaced by the following:

“(c) the damage is caused—
 - “(i) by a natural event not under the control of the person, an agent of the person, or an associated person; and
 - “(ii) other than as a result of the action or failure to act of the person, an agent of the person, or an associated person.”

New clause 12BB

To insert, after *clause 12B* (after line 11 on page 21), the following:

12BB New section EZ 23B

After section EZ 23, the following is inserted:

“EZ 23B Insurance or compensation for depreciable property replaced because affected by Canterbury earthquakes

“When this section applies

“(1) This section applies for a person and an income year (the **current year**) before the 2016–17 income year when the person,—

“(a) in or before the current year, receives insurance or compensation for items of depreciable property (the **affected property**) each of which, as a result of a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011,—

“(i) if not a building, is irreparably damaged; or

“(ii) if a building, is rendered useless for the purpose of deriving income, and demolished or abandoned for later demolition, because of damage to the building or to the neighbourhood of the building; and

“(b) in the absence of this section, would have in or before the current year, from insurance or compensation for the items of affected property in 1 of the classes (the **affected class**) referred to in **subsection (9)(b)**, total depreciation recovery income under section EE 48 (Effect of disposal or event) exceeding the total amount of depreciation loss, treated as a positive amount, under section EE 48; and

“(c) plans in the current year to acquire property (the **replacement property**) replacing affected property and meeting the requirements of **subsection (6)**; and

“(d) gives written notice to the Commissioner under **subsection (8)** in relation to the affected property.

“Suspended recovery income

“(2) The amount of the excess referred to in **subsection (1)(b)** (the **excess recovery**) for the affected class is not depreciation recovery income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under **subsection (3) or (5)** that is attributed to an income year by **subsection (7)**.

“Effect of purchase of replacement property for affected property not in pool

- “(3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property for affected property for which the person did not use the pool method,—
- “(a) the amount of the person’s expenditure on the replacement property is treated as being reduced, by the amount given by **subsection (4)**, for the purposes of determining—
- “(i) the adjusted tax value of the replacement property, if **subparagraphs (ii) and (iii)** do not apply; or
- “(ii) the cost of the replacement property for the straight-line method, if that method is used to determine depreciation loss for the replacement property; or
- “(iii) the adjusted tax value of the pool of the replacement property, if the person uses the pool method for the replacement property; and
- “(b) the amount of the suspended recovery income is reduced by the amount given by **subsection (4)**.

“Amount of reduction: expenditure on replacement property and suspended recovery income

- “(4) The amount of the reduction under **subsection (3)(a) or (b)** for replacement property and affected property in an affected class is calculated by multiplying the lesser of the suspended recovery income for the affected class before the expenditure and the replacement cost for the replacement property by the excess recovery for the affected class and dividing the result by the total cost for the person of the affected property in the affected class.

“Effect of purchase of replacement property for affected property in pool

- “(5) If the person incurs expenditure (the **replacement cost**) to acquire replacement property for affected property for which the person used the pool method,—
- “(a) the amount of the person’s expenditure on replacement property is treated as being reduced by an amount equal to the lesser of the suspended recovery income before the expenditure for the affected class and the replacement cost for the replacement property, for the purposes of determining—
- “(i) the adjusted tax value of the replacement property, if **subparagraphs (ii) and (iii)** do not apply; or

- “(ii) the cost of the replacement property for the straight-line method, if that method is used to determine depreciation loss for the replacement property; or
 - “(iii) the adjusted tax value of the pool of the replacement property, if the person uses the pool method for the replacement property; and
 - “(b) the amount of the suspended recovery income is reduced by the amount of the treated reduction of expenditure under **paragraph (a)**.
- “Requirements for replacement property*
- “(6) For an item of affected property, replacement property must—
- “(a) be acquired in or before the person’s 2015–16 income year; and
 - “(b) be used, or available for use, by the person for the purpose of deriving income; and
 - “(c) be included in the category that includes the affected property, if the affected property is in a category described in **subsection (9)(b)(i) or (ii)**; and
 - “(d) if a building or commercial fit-out, be located in greater Christchurch as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011.
- “Amount remaining at end of 2015–16 income year or when person changes intentions, is liquidated, or becomes bankrupt*
- “(7) The person has an amount of depreciation recovery income for the affected property in the current year equal to the amount of suspended recovery income when—
- “(a) the current year ends, if the current year is the 2015–16 income year:
 - “(b) in the current year, the person decides not to replace the affected property:
 - “(c) in the current year, the person goes into liquidation or becomes bankrupt.
- “Notice of election for affected property*
- “(8) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must give written notice to the Commissioner—
- “(a) by the later of 31 January 2012 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance or compensation for the affected property can be reasonably estimated; and
 - “(b) if the current year is after the estimate year,—

- “(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
- “(ii) for the current year, by the date on which the return of income is filed for the current year.

“Contents of notice of election

- “(9) A notice under **subsection (8)** must—
 - “(a) describe the affected property; and
 - “(b) indicate which of the following categories includes the affected property:
 - “(i) a building not referred to in **subparagraph (iii)**; or
 - “(ii) commercial fit-out not referred to in **subparagraph (iii)**; or
 - “(iii) depreciable property that is not depreciable intangible property and for which the person uses the pool method; or
 - “(iv) depreciable property that is not depreciable intangible property and is not described in **subparagraphs (i) to (iii)**; and
 - “(c) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and
 - “(d) give the amount of the expenditure on the replacement property and the reduction under **subsection (3) or (5)** of that expenditure for the purpose of determining adjusted tax value or depreciation loss; and
 - “(e) give the amount, for the affected property, of the suspended recovery income at the end of the current year.

“Relationship to subpart EE

- “(10) This section overrides subpart EE (Depreciation).

“Defined in this Act: amount, commercial building, commercial fit-out, depreciable property, depreciable tangible property, depreciation recovery income, income year, notice, return of income”.

Clause 13(5)(a)

To omit “House” (line 7 on page 29) and substitute “House of Representatives”.

New clause 14BA

To insert, after *clause 14* (after line 19 on page 29), the following:

14BA Rights and obligations of amalgamated companies

In section FO 4(2), “Companies Act 1993,” is replaced by “Companies Act 1993, or under this section in the case of an amalgamation of building societies,”.

New clause 21B

To insert, after *clause 21* (after line 23 on page 54), the following:

21B Qualifying companies: transition into look-through companies

- (1) After section HZ 4C(3), the following is added:
“*Continuity of elections and methods*”
- “(4) The look-through company steps into the place of the qualifying company in relation to Inland Revenue Act elections and methods relating to the qualifying company.
“*Effect of elections and methods*”
- “(5) After **subsection (4)** applies, section HB 1 (Look-through companies are transparent) applies, so that the elections and methods are those of an owner of an effective look-through interest for the look-through company.”
- (2) In section HZ 4C, in the list of defined terms, “Inland Revenue Acts” is inserted.
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 April 2011.

New clause 22J

To insert, after *clause 22I* (after line 20 on page 62), the following:

22J Tax credits for resident withholding tax

- (1) After section LB 3(3), the following is added:
“*Exclusion: Trustees’ RWT substitution payment*”
- “(4) No credit exists under subsection (1) for an amount of tax equal to the amount of an RWT substitution payment that a trustee has paid to the person in relation to the tax.
“*Effect of RWT substitution payment*”
- “(5) A person who pays an RWT substitution payment has a tax credit for a tax year equal to the payment.”
- (2) In section LB 3, in the list of defined terms, “RWT substitution payment” and “trustee” are inserted.
- (3) **Subsection (1)** applies for the 2008–09 and later income years if the trustee has taken a tax position in a tax return that is consistent with **subsection (1)**.

New clauses 32CB and 32CC

To insert, after *clause 32C* (after line 22 on page 73), the following:

32CB Section RD 67 replaced

Section RD 67 is replaced by the following:

“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); or
- “(b) 33% of the employer’s superannuation cash contribution, if the employer chooses 33% and the contribution is to a defined benefit fund.

“Defined in this Act: amount, amount of tax, defined benefit fund, employer, employer’s superannuation cash contribution”.

32CC Resident passive income

- (1) After section RE 2(6), the following is added:

“Trustees’ RWT substitution payment

- “(7) A trustee may pay an amount of money (the **RWT substitution payment**) to the relevant beneficiary that is equal to or less than the amount of RWT withheld for an amount to which subsection (6) applies (the **RPI beneficiary income**).

“Effect of RWT substitution payment

- “(8) The RWT substitution payment is treated as an amount of resident passive income that is beneficiary income, with the same nature as the RPI beneficiary income. There is no liability or obligation to withhold RWT in relation to the RWT substitution payment.”

- (2) In section RE 2, in the list of defined terms, “beneficiary” and “RWT substitution payment” are inserted.

- (3) **Subsection (1)** applies for the 2008–09 and later income years if the trustee has taken a tax position in a tax return that is consistent with **subsection (1)**.

Clause 33

Subclause (3): section RP 17B(4)(b)(ii): To omit “corresponding income year is a leap year” (line 8 on page 75) and substitute “terminal tax date falls in a tax year that has a 29 February in it”.

Subclause (5): section RP 17B(9)(c): To omit “of income” (line 12 on page 76).

Clause 36

New subclause (1BA): to insert, after *subclause (1)* (after line 4 on page 79), the following:

- (1BA) The definitions of **amalgamated company**, **amalgamating company**, and **amalgamation** are replaced by the following:

“amalgamated company means—

- “(a) the 1 company that results from and continues after an amalgamation and that may be 1 of the amalgamating companies or a new company;
- “(b) for an amalgamation of building societies, a building society described as **society B** in the definition of **amalgamation, paragraph (b)**

- “**amalgamating company** means—
- “(a) a company that amalgamates with 1 or more other companies under an amalgamation:
 - “(b) for an amalgamation of building societies, a building society described as **society A** or as **society B** in the definition of **amalgamation, paragraph (b)**
- “**amalgamation** means—
- “(a) an amalgamation to which both of the following apply:
 - “(i) it occurs under Part 13 or 15 of the Companies Act 1993, or it occurs or occurred under a foreign law that has the same or similar effect to Part 13 or 15 of the Companies Act 1993; and
 - “(ii) it causes 2 or more companies to amalgamate and continue as 1 company:
 - “(b) a transfer by a building society (**society A**) of all of its engagements to another building society (**society B**) under section 33 of the Building Societies Act 1965 if—
 - “(i) a notice of the transfer (the **notice**) is registered under section 34(3) of the Building Societies Act 1965; and
 - “(ii) society A’s funds, property, and assets are transferred or assigned to society B, except to the extent required to settle its affairs before being removed from the register of building societies; and
 - “(iii) society A does not carry on business after the notice is registered, except to the extent required to settle its affairs before being removed from the register of building societies; and
 - “(iv) society A’s liabilities are satisfied or assumed by society B; and
 - “(v) society A is or will be removed from the register of building societies as soon as practicable after the notice is registered”.

New subclauses (3BA) and (3BAB): to insert, after subclause (3) (after line 14 on page 81), the following:

- (3BA) In the definition of **revenue account property**, paragraph (c), “person” is replaced by “person:” and the following is added:
- “(d) is a non-Kyoto greenhouse gas unit”.
- (3BAB) The following is inserted in its appropriate alphabetical order:
- “**RWT substitution payment** means an RWT substitution payment described in section RE 2(7) (Resident passive income)”.

New clause 37B

To insert, after *clause 37* (after line 34 on page 81), the following:

37B Corporate spin-outs

Section YC 13(1)(c) is replaced by the following:

- “(c) before the transfer or issue, the original parent is treated as holding an interest in the spun-out company that is a voting interest of more than 50% or, if a market value circumstance exists, a market value interest of more than 50%, both calculated as if section YC 4 did not apply to treat the original parent’s interests in the spun-out company as being held by others; and”.

Clause 40

New subclauses (3BA) to (3BAD): to insert, after *subclause (3)* (after line 8 on page 84), the following:

- (3BA) In schedule 1, part D, in the heading to clause 1, “**RD 67**” is replaced by “**RD 67(a)**”.
- (3BAB) In schedule 1, part D, clause 1, “RD 67” is replaced by “RD 67(a)”.
- (3BAC) In schedule 1, part D, table 3, row 3, “0.30” is replaced by “0.33” in each place in which it appears.
- (3BAD) In schedule 1, part D, table 3, row 4 “0.30” is replaced by “0.33”.

Subclause (4): to omit “**and (3)**” (line 11 on page 84) and substitute “**(3), (3BAC), and (3BAD)**”.

Clause 41C(1)

To omit “**schedule 1**” (line 28 on page 86) and substitute “the **schedule**”.

Clause 57D(1)

Section 31C(2C): to omit “end tax year” (line 32 on page 92) and substitute “end of the tax year”.

New clause 57DB

To insert, after *clause 57D* (after line 11 on page 93), the following:

57DB Notification of amalgamation to Commissioner

- (1) After section 75(a), the following is inserted:
- “(ab) in the case of an amalgamation of building societies, the notice of the transfer of all engagements is registered under section 34(3) of the Building Societies Act 1965 or the **Taxation (Tax Administration and Remedial Matters) Act 2010** receives the Royal assent (whichever is later); or”.
- (2) In section 75(e) “has effect” is replaced by “has effect (being the date provided by **paragraph (ab)** in the case of an amalgamation of building societies)”.

Clause 67(1)

To omit “(vii)” (line 2 on page 101) and substitute “(c)(vii)”.

Clause 81

To omit “**82**” (line 19 on page 107) and substitute “**81B**”.

New clause 81B

To insert, after *clause 81* (after line 19 on page 107), the following:

81B New section CW 1B

After section CW 1, the following is inserted:

“CW 1B Treaty of Waitangi claim settlements: rights to take timber

“When this section applies

“(1) This section applies when a person’s right to take timber (the **old right**) is extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if—

“(a) the sole reason for the new rights replacing the old right is to facilitate a Treaty of Waitangi claim settlement process; and

“(b) the rights and obligations of the new rights are equivalent to the old right, ignoring differences that are solely for the reason in **paragraph (a)**.

“Exempt income

“(2) An amount under section CB 22(1)(b) (Disposal of timber or right to take timber) for the extinguishing of the old right, or for the granting of the new rights, is exempt income of the relevant person. The amount is not income under that section.

“Exception

“(3) **Subsection (2)** does not apply to an amount to the extent it is compensation paid, for the new rights replacing the old right, to the person who is granted the new right.

“Relationship with section DP 8B

“(4) **Section DP 8B** (Treaty of Waitangi claim settlements: rights to take timber) deals with the cost of the new rights for the person who is granted them.

“Defined in this Act: amount, exempt income, income, pay, person, right to take timber”.

New clauses 83B and 83C

To insert, after *clause 83* (after line 22 on page 108), the following:

83B New section DP 8B

After section DP 8, the following is inserted:

“DP 8B Treaty of Waitangi claim settlements: rights to take timber

“When this section applies

- “(1) This section applies when a person’s right to take timber (the **old right**) has been extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if **section CW 1B** (Treaty of Waitangi claim settlements: rights to take timber) applied to exempt income for the extinguishing of the old right.

“Cost of acquiring new rights

- “(2) The person who is granted the new rights is treated, for each new right, as having acquired the new right for a cost equal to the expenditure they incurred in relation to the old right, but only to the extent that the expenditure relates to the land covered by the new right and has not been deducted previously.

“Defined in this Act: exempt income, land, person, right to take timber”.

83C Cost of timber

- (1) After section DP 10(4), the following is inserted:
“(4B) Subsection (2) does not apply if the amount of income of the person under section CB 22 would be exempt income under **section CW 1B** (Treaty of Waitangi claim settlements: rights to take timber) but for **section CW 1B(3)**.”
- (2) In section DP 10, in the list of defined terms, “exempt income” is inserted.

Clause 95

To omit “**96 and 97**” (line 21 on page 116) and substitute “**95B to 97B**”.

New clause 95B

To insert, after *clause 95* (after line 21 on page 116), the following:

95B New section CB 17

Before the heading to subpart CC, the following is inserted:

“CB 17 Treaty of Waitangi claim settlements: rights to take timber

“When this section applies

- “(1) This section applies when a person’s right to take timber (the **old right**) is extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if—
- “(a) the sole reason for the new rights replacing the old right is to facilitate a Treaty of Waitangi claim settlement process; and

“(b) the rights and obligations of the new rights are equivalent to the old right, ignoring differences that are solely for the reason in **paragraph (a)**.

“*Exempt income*

“(2) An amount under section CJ 1(1)(b) for the extinguishing of the old right, or for the granting of the new rights, is exempt income of the relevant person. The amount is not gross income under that section.

“*Exception*

“(3) **Subsection (2)** does not apply to an amount to the extent it is compensation paid, for the new rights replacing the old right, to the person who is granted the new right.

“*Relationship with section DL 1*

“(4) **Section DL 1(16) and (17)** deal with the cost of the new rights for the person who is granted them.”

New clause 97B

To insert, after *clause 97* (after line 14 on page 117), the following:

97B Cost of timber

After section DL 1(15), the following is added:

“(16) **Subsection (17)** applies for the purposes of this section and section DJ 13A when a person’s right to take timber (the **old right**) has been extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if **section CB 17** (Treaty of Waitangi claim settlements: rights to take timber) applied to exempt income for the extinguishing of the old right.

“(17) The person who is granted the new rights is treated, for each new right, as having acquired the new right for a cost equal to the expenditure they incurred in relation to the old right, but only to the extent that the expenditure relates to the land covered by the new right and has not been deducted previously.

“(18) Subsections (2) to (15), and section DJ 13A, do not apply to allow a deduction to the extent to which the amount that would be a deduction, but for this subsection, was incurred in deriving an amount that—

“(a) is exempt income under **section CB 17** (Treaty of Waitangi claim settlements: rights to take timber); or

“(b) would be exempt income under **section CB 17**, but for **section CB 17(3)**.”

Explanatory note

This Supplementary Order Paper (SOP) contains changes to the Taxation (Tax Administration and Remedial Matters) Bill. The main changes implement depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010. The most significant depreciation regime amendment is the introduction of roll-over relief for depreciation recovery income in the case of an item of depreciable property that is replaced and, where the insurance or compensation would have otherwise given rise to such income. Similar roll-over relief is being allowed for income generated from insurance or compensation for revenue account buildings. Also, the timing of income from the proceeds of business interruption insurance is being changed, with effect from 4 September 2010. Other changes in this SOP are of a remedial nature, including the following:

- Allowing building societies to use the amalgamation tax rules for companies;
- Giving trustees the choice of substituting money for RWT credits in beneficiary income;
- Giving relief when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process;
- Allowing employers the choice of a flat 33% rate of employer superannuation contribution tax for contributions to defined benefit funds; and
- Ensuring that the elections and methods used for tax of a qualifying company are correctly dealt with when the qualifying company transitions into a look-through company.

Minor remedial changes for drafting errors are also proposed.

Regulatory impact statement

A copy of the regulatory impact statement for roll-over relief in the wake of the Canterbury earthquakes is available at the following internet sites:

- <http://taxpolicy.ird.govt.nz/publications/2011-ris-sop-tarm-bill/overview>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Changes to *clause 2* provide appropriate commencement dates for the inserted clauses.

New clause 3BB inserts a *new section CG 5B of the Income Tax Act 2007*, to change, with effect from 4 September 2010, the timing of income from the proceeds of business interruption insurance.

New clause 3D inserts a *new section CW 1B of the Income Tax Act 2007*, to provide that exempt income arises when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 4D inserts a new section CZ 23 of the *Income Tax Act 2007*, as part of the revenue account buildings amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

New clause 6E inserts a new section DP 9B of the *Income Tax Act 2007*, to provide a new cost base when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 6F amends section DP 11 of the *Income Tax Act 2007*, as part of providing for when a forestry right is extinguished and re-granted in whole or in part for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 7DB amends section EE 1 of the *Income Tax Act 2007*, as part of the depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

New clause 7DC amends section EE 44 of the *Income Tax Act 2007*, as part of the depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

New clause 7DD amends section EE 45 of the *Income Tax Act 2007*, as part of the depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

New clause 7DE amends section EE 47 of the *Income Tax Act 2007*, as part of the depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

New clause 7DF amends section EE 48 of the *Income Tax Act 2007*, as part of the depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

New clause 12BB inserts a new section EZ 23B of the *Income Tax Act 2007*, as part of the depreciation regime amendments to bring tax relief in the wake of the Canterbury earthquakes starting on 4 September 2010.

In *clause 13(5)(a)* there is a change to correct a minor drafting remedial matter.

New clause 14BA amends section FO 4 of the *Income Tax Act 2007*, to allow building societies to use the amalgamation tax rules for companies.

New clause 21B amends section HZ 4C of the *Income Tax Act 2007*, to ensure that the elections and methods used for tax of a qualifying company are correctly dealt with when the qualifying company transitions into a look-through company.

New clause 22J amends section LB 3 of the *Income Tax Act 2007*, as part of giving trustees the choice of substituting money for RWT credits in beneficiary income.

New clause 32CB replaces section RD 67 of the *Income Tax Act 2007*, to allow employers the choice of a flat 33% rate of employer superannuation contribution tax for contributions to defined benefit funds.

New clause 32CC amends section RE 2 of the *Income Tax Act 2007*, to give trustees the choice of substituting money for RWT credits in beneficiary income.

In *clause 33*, in *section RP 17B(4)(b)(ii)* and in *section RP 17B(9)(c)*, there are changes to correct 2 minor drafting remedial matters.

In *clause 36*, which amends *YA 1 of the Income Tax Act 2007*, there are the following changes: *new subclause (1BA)* replaces the definitions of *amalgamated company*, *amalgamating company* and *amalgamation* as part of allowing building societies to use the amalgamation tax rules for companies; *new subclause (3BA)* amends the definition of *revenue account property* as a remedial matter connected with emissions trading; *new subclause (3BAB)* inserts a definition of *RWT substitution payment* as part of giving trustees the choice of substituting money for RWT credits in beneficiary income.

New clause 37B amends *section YC 13 of the Income Tax Act 2007*, as a remedial matter connected with levels of interests in the thresholds for the shareholder continuity rules for corporate spin-outs.

In *clause 40*, which amends *schedule 1 of the Income Tax Act 2007*, there are the following changes: *new subclauses (3BA) and (3BAB)* amend *part D*, consequential to allowing employers the choice of a flat 33% rate of employer superannuation contribution tax for contributions to defined benefit funds; *new subclauses (3BAC) and (3BAD)* amend *part D, table 3*, as a drafting remedial matter.

In *clause 41C(1)* there is a change to correct a minor drafting remedial matter.

In *clause 57D(1)*, in *section 31C(2C)*, there is a change to correct a minor drafting remedial matter.

New clause 57DB amends *section 75 of the Tax Administration Act 1994* as part of allowing building societies to use the amalgamation tax rules for companies.

In *clause 67(1)* there is a change to correct a minor drafting remedial matter.

New clause 81B inserts a *new section CW 1B of the Income Tax Act 2004*, to provide that exempt income arises when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 83B inserts a *new section DP 8B of the Income Tax Act 2004*, to provide a new cost base when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 83C amends *section DP 10 of the Income Tax Act 2004*, as part of providing for when a forestry right is extinguished and re-granted in whole or in part for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 95B inserts a *new section CB 17 of the Income Tax Act 1994*, to provide that exempt income arises when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process.

New clause 97B amends section DL 1 of the Income Tax Act 1994, to provide a new cost base when a forestry right is extinguished and re-granted in whole or in part solely for the purpose of facilitating a Treaty of Waitangi claim settlement process.
