

CS – Superannuation funds

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Withdrawals

CS 1 Withdrawals

When this section applies

- (1) This section applies when a withdrawal is made from a superannuation fund, if all the following apply:

- (a) the fund is either—
 - (i) a fund to which the member's employer has made specified superannuation contributions for the member's benefit; or
 - (ii) a fund that has received a transfer from another superannuation fund for the member; and
- (b) the withdrawal is related to the member's membership of the fund; and
- (c) the application of this section to the withdrawal is not excluded by any of sections CS 2 to CS 9.

Income of fund

- (2) Part of the withdrawal is income of the superannuation fund. The part that is income is calculated using the formula—

$$\frac{0.05 \times \text{withdrawal}}{\text{tax rate.}}$$

Definition of items in formula

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

Withdrawal

- (4) **Withdrawal** is one of the following:
 - (a) if part of the withdrawal consists of some or all of the employer's contributions to superannuation savings and the trustee of the superannuation fund can establish the amount of the part, **withdrawal** is the withdrawn amount of the employer's contributions to superannuation savings;
 - (b) in any other case, **withdrawal** is—
 - (i) the money withdrawn from the superannuation fund; or
 - (ii) if money is not withdrawn, the market value of the withdrawal on the date of the withdrawal.

Tax rate

- (5) **Tax rate** is the basic rate of income tax stated in schedule 1, part A, clause 4.

Reduction of income

- (6) The superannuation fund may reduce the income by 25% for each income year to which both the following apply:
 - (a) the income year is one of the 4 income years before the income year in which the withdrawal is made; and
 - (b) in the income year, the total of the member's taxable income and the employer's specified superannuation contributions to the fund for the member's benefit is less than \$60,000.

Allocation

- (7) The income is allocated as follows:
- (a) if the superannuation fund winds up or becomes a foreign superannuation scheme, the income is allocated to the income year in which the withdrawal is made:
 - (b) in any other case, the income is allocated to the income year following the income year in which the withdrawal is made.

Origin:	(1) CL 4(1). (2) CL 4(2). (3) CL 4(2), (5), (6). (4) CL 4(2), (5), (6). (5) CL 4(2), (5), (6). (6) CL 4(3), (4). (7) EN 6.
Defined terms:	amount, employer, employer's contributions to superannuation savings, foreign superannuation scheme, income, income tax, income year, member, specified superannuation contribution, superannuation fund, taxable income, trustee, withdrawal.

Exceptions

CS 2 Exceptions for withdrawals of various kinds

Withdrawal of member's contributions

- (1) Section CS 1 does not apply to a withdrawal of a member's contributions.

Withdrawal of employer's contributions

- (2) Section CS 1 does not apply to a withdrawal of the employer's contributions to superannuation savings for a member's benefit. However, section CS 1 applies to such a withdrawal if—
- (a) the employer increases the level of the employer's specified superannuation contributions on and after 1 April 2000, as compared with the level in the last pay period ending before 1 April 2000; and
 - (b) none of subsection (3)(a) to (c) applies.

Increase not treated as such

- (3) An employer who increases the level of specified superannuation contributions is treated as not doing so—
- (a) to the extent to which the employer increases the level by making additional specified superannuation contributions for the member's benefit to compensate for underpaying specified superannuation contributions for the member's benefit; or

- (b) if the increase is required by a trust deed or a contract, or an amendment to a trust deed or a contract, and the requirement existed before 1 April 2000; or
- (c) if the level of specified superannuation contributions does not change as a percentage of salary as between the level on and after 1 April 2000 and the level in the last pay period ending before 1 April 2000.

Superannuation fund administration costs

- (4) Section CS 1 does not apply to a withdrawal for fees and expenses associated with the management and marketing of the superannuation fund.

Life, health, sickness, or accident insurance

- (5) Section CS 1 does not apply to—
 - (a) a withdrawal for the payment of premiums for life, health, sickness, or accident insurance held by or on behalf of a member of the superannuation fund, whether the insurance is group insurance or individual insurance; or
 - (b) a withdrawal to pay an amount claimed for a member under insurance described in paragraph (a).

Transfer between funds

- (6) Section CS 1 does not apply to a withdrawal that takes the form of a direct transfer of an amount from a superannuation fund to another superannuation fund.

Transfer from wound-up fund

- (7) Section CS 1 does not apply to a withdrawal that takes the form of a direct transfer to another superannuation fund of an amount from a superannuation fund that is wound up.

Amount in fund on certain dates

- (8) Section CS 1 does not apply to a withdrawal of an amount, or earnings on it, that is in the superannuation fund either—
 - (a) on the fund's balance date that precedes 1 April 2000, if a trustee of the fund calculates the amount in the fund on the balance date; or
 - (b) at the close of business on 31 March 2000, in any other case.

Interpretation of subsection (8)

- (9) For the purposes of subsection (8),—
- (a) what the amount is that is in the superannuation fund is calculated according to market value:
 - (b) an amount in a superannuation fund includes specified superannuation contributions received after the fund's balance date that precedes 1 April 2000 or 31 March 2000, as applicable, if the contributions relate to a pay period ending on or before the fund's balance date or 31 March 2000, as applicable.

Origin:	(1) CL 3(1)(c). (2) CL 3(1)(d). (3) CL 3(4), (5). (4) CL 3(1)(e), (6). (5) CL 3(1)(f), (g), (h). (6) CL 3(1)(i). (7) CL 3(1)(j). (8) CL 3(1)(a), (b); CL 21. (9) CL 3(2), (3).
Defined terms:	amount, employer, employer's contribution to superannuation savings, member, member's contribution, pay, pay period, premium, specified superannuation contribution, superannuation fund, trustee, withdrawal.

CS 3 Exception for withdrawal on grounds of hardship

Significant financial hardship

- (1) Section CS 1 does not apply to a withdrawal to the extent to which the withdrawal is necessary to alleviate significant financial hardship.

'Significant financial hardship' defined

- (2) **Significant financial hardship** includes significant financial difficulties that arise because of—
- (a) a member's inability to meet minimum living expenses; or
 - (b) a member's inability to carry out their usual occupation because of their temporary or permanent illness, injury, or disability; or
 - (c) a member's inability to meet mortgage repayments on their principal family residence resulting in the mortgagee seeking to enforce the mortgage on the residence; or
 - (d) the cost of modifying a residence to meet special needs arising from a disability of a member or a member's dependant; or
 - (e) the cost of medical treatment for an illness or injury of a member or a member's dependant; or

- (f) the cost of palliative care for a member or a member's dependant; or
- (g) the cost of a funeral for a deceased member or a member's dependant.

Origin:	(1) CL 5(1). (2) CL 5 (2).
Defined terms:	member, mortgage, significant financial hardship, withdrawal.

CS 4 Exception for withdrawal to settle division of matrimonial property

Section CS 1 does not apply to a withdrawal to the extent to which the withdrawal is necessary to settle the division of matrimonial property under the Matrimonial Property Act 1976 on the separation of spouses or on the dissolution of a marriage under the Family Proceedings Act 1980.

Origin:	CL 6.
Defined terms:	withdrawal.

CS 5 Exception for withdrawal paid as annuity or pension

Section CS 1 does not apply to a withdrawal if the amount withdrawn is—

- (a) used to buy an annuity that is payable for life or over 10 or more years; or
- (b) payable as an annuity for life or over 10 or more years; or
- (c) payable as a pension for life or over 10 or more years.

Origin:	CL 7.
Defined terms:	amount, pay, withdrawal.

CS 6 Exception for withdrawal on partial retirement

Partial retirement

- (1) Section CS 1 does not apply to a withdrawal made on or after the date on which a member partially retires, if, on the date the withdrawal is made,—
 - (a) the member is employed for 30 hours per week or less; and
 - (b) the member has reduced their working hours because they are nearing full retirement; and
 - (c) the member stops contributing to the superannuation fund; and

- (d) the member's employer stops making specified superannuation contributions to the superannuation fund for the member's benefit; and
- (e) the member gives a notice as described in subsection (2) to the trustees of the superannuation fund.

Notice

- (2) The member's notice to the trustees of the superannuation fund must—
 - (a) state that the member does not intend to increase their hours in paid employment in the future; and
 - (b) state that the member's employer understands that the member's hours in paid employment will not increase in the future; and
 - (c) be signed by the employer to acknowledge that the employer's understanding is as described in paragraph (b).

Later withdrawals

- (3) A member who makes a withdrawal after giving notice as required by subsection (2) is not required to give notice for each later withdrawal if their intention has not changed.

Origin:	(1) CL 12(1). (2) CL 12(2). (3) CL 12(3).
Defined terms:	employer, member, notice, specified superannuation contribution, superannuation fund, trustee, withdrawal.

CS 7 Exception for withdrawal when member ends employment

Ending employment because of injury, disability, or death

- (1) Section CS 1 does not apply to a withdrawal made on or after the date on which a member ends their employment with an employer if the member ends their employment because the member is injured or disabled or dies.

Ending employment of 2 years or more

- (2) Section CS 1 does not apply to a withdrawal made in the circumstances described in subsections (3) and (4) and at the time described in subsection (5).

Circumstances for purposes of subsection (2)

- (3) For the purposes of subsection (2), the circumstances are—
 - (a) a member is employed for 2 years or more; and
 - (b) in each of the 2 income years ending on or before the date on which the member ends their employment, the specified

superannuation contributions the employer makes in the income year for the member's benefit—

- (i) are 150% or more of the specified superannuation contributions made in the previous income year but are treated as not being so, in a case described in subsection (4); or
 - (ii) are not 150% or more of the specified superannuation contributions made in the previous income year, in any other case; and
- (c) in the income year in which the member ends their employment, the annualised specified superannuation contributions the employer makes in the income year for the member's benefit—
- (i) are 150% or more of the specified superannuation contributions made in the previous income year but are treated as not being so, in a case described in subsection (4); or
 - (ii) are not 150% or more of the specified superannuation contributions made in the previous income year, in any other case.

Cases treated as coming within subsection (3)

- (4) For the purposes of subsection (3), specified superannuation contributions to a superannuation fund that are 150% or more of the specified superannuation contributions made in the previous income year are treated as not being so—
- (a) to the extent to which the employer increases the level by making additional specified superannuation contributions for the member's benefit to compensate for underpaying specified superannuation contributions for the member's benefit; or
 - (b) if the increase occurs before 1 April 2000; or
 - (c) if the increase is required by a trust deed or a contract, or an amendment to a trust deed or a contract, and the requirement existed before 1 April 2000; or
 - (d) if the employer starts making specified superannuation contributions for a member's benefit under a contract, or an amendment to a contract, that was signed before 1 April 2000; or
 - (e) if the level of specified superannuation contributions does not change as a percentage of salary as between the level on and after 1 April 2000 and the level in the last pay period ending before 1 April 2000.

Time for purposes of subsection (2)

- (5) For the purposes of subsection (2), the times are—
- (a) on or after the date on which a member ends their employment with an employer; or
 - (b) shortly before the date on which the member ends their employment, in anticipation of the member's ending their employment.

Ending employment in any other case

- (6) If a withdrawal is made on or after the date on which a member ends their employment with an employer and the application of section CS 1 is not excluded by subsection (1) or subsection (2), section CS 1 applies only to the withdrawal of an amount equal to the employer's contributions to superannuation savings calculated for the period starting on the first day of the income year that starts 2 income years before the date on which the member ends their employment and ending on the date of withdrawal.

What is not ending employment

- (7) Section CS 10 describes a case in which a member is treated as not ending their employment for the purposes of this section.

Origin:	(1) CL 8(1). (2) new. (3) CL 8(2). (4) CL 8(4), (5). (5) CL 8(3). (6) CL 8(6). (7) new.
Defined terms:	amount, employer, employer's contributions to superannuation savings, income year, member, pay period, specified superannuation contribution, superannuation fund, withdrawal.

CS 8 Exception for withdrawal when member ends employment: lock-in rule

Deferral of withdrawal

- (1) Section CS 1 does not apply to a withdrawal of an amount made 2 years after the date on which a member ends their employment with an employer if, when the member ends their employment, the member defers the withdrawal for 2 years after the date of ending their employment.

What is not ending employment

- (2) Section CS 10 describes a case in which a member is treated as not ending their employment for the purposes of this section.

Origin:	(1) CL 9. (2) new.
Defined terms:	amount, employer, member, withdrawal.

CS 9 Exception for withdrawal from defined benefit fund when member ends employment

Defined benefit fund

- (1) Section CS 1 does not apply to a withdrawal made from a defined benefit fund—
- (a) on or after the date on which a member ends their employment with an employer, irrespective of the member's length of service; or
 - (b) shortly before the date on which a member ends their employment with an employer, in anticipation of the member's ending their employment, irrespective of the member's length of service.

What is not ending employment

- (2) Section CS 10 describes a case in which a member is treated as not ending their employment for the purposes of this section.

Origin:	(1) CL 10(1). (2) new.
Defined terms:	defined benefit fund, employer, member, withdrawal.

CS 10 When member treated as not ending employment

When this section applies

- (1) This section applies for the purposes of sections CS 7, CS 8, and CS 9.

Transfer to related employer

- (2) A member is treated as not ending their employment with employer A if the member transfers from employer A to employer B and employer B is a related employer of employer A.

Related employer

- (3) Employer B is a related employer of employer A if employer B—
- (a) is treated as a separate employer from employer A; and
 - (b) is—
 - (i) a branch or division of employer A; or
 - (ii) an associated person with employer A.

Origin:	(1) CL 11(1). (2) CL 11(2). (3) CL 11(3).
Defined terms:	associated person, employer, member.

Transfers to or from superannuation funds and superannuation schemes

CS 11 Transfer by superannuation fund to another superannuation fund

Notification of nature of amount transferred

- (1) An amount transferred by a superannuation fund to another superannuation fund retains its nature in the transferee fund if—
- (a) the transferee fund is not a defined benefit fund; and
 - (b) the trustees of the transferor fund, the member's past employer, or the member's present employer give notice to the transferee fund of the nature of the amount transferred.

No notification of nature of amount transferred

- (2) If the trustees of the transferor fund, the member's past employer, or the member's present employer do not give notice to the transferee fund of the nature of the amount transferred, the amount transferred is treated as being, in the transferee fund, the employer's contributions to superannuation savings.

Notification of nature of amounts transferred to defined benefit fund

- (3) Amounts to which section CS 2 (1) or (8) apply that are transferred by a superannuation fund to a defined benefit fund retain their nature in the defined benefit fund if the trustees of the superannuation fund give notice to the defined benefit fund of the nature of the amounts.

No notification of nature of amounts transferred to defined benefit fund

- (4) If the trustees of the superannuation fund do not give notice to the defined benefit fund of the nature of the amounts to which section CS 2 (1) or (8) apply, section CS 1 applies to the amount transferred when it is withdrawn from the defined benefit fund unless the application of section CS 1 is excluded by any of sections CS 2 to CS 9.

Origin:	(1) CL 14(1). (2) CL 14(2). (3) CL 14(3). (4) CL 14(4).
Defined terms:	amount, defined benefit fund, employer, employer's contributions to superannuation savings, member, notice, superannuation fund, trustee.

CS 12 Transfer from superannuation scheme to superannuation fund

An amount transferred directly from a superannuation scheme to a superannuation fund is treated as being, in the superannuation fund, the member's contribution.

Origin:	CL 15.
Defined terms:	amount, member's contribution, superannuation fund, superannuation scheme.

CS 13 Investment by superannuation fund in another superannuation fund

Superannuation fund investing in another superannuation fund

- (1) If a superannuation fund (superannuation fund A) is a member of another superannuation fund (superannuation fund B),—
- (a) superannuation fund A's investment in superannuation fund B is not a transfer; and
 - (b) a withdrawal of an amount related to superannuation fund A's investment in superannuation fund B is not a transfer; and
 - (c) a withdrawal of an amount related to superannuation fund A's investment in superannuation fund B is not a withdrawal to which section CS 2 applies.

Superannuation fund investing in superannuation scheme

- (2) If a superannuation fund is a member of a superannuation scheme,—
- (a) the fund's investment in the scheme is not a transfer; and
 - (b) a withdrawal by the fund related to the investment is not a transfer.

Origin:	(1) CL 16(1). (2) CL 16(2).
Defined terms:	amount, member, superannuation fund, superannuation scheme, withdrawal.

Treatment of amounts when superannuation fund becomes superannuation scheme or vice versa

CS 14 Superannuation fund becomes superannuation scheme

Effect of change

- (1) If a superannuation fund becomes a superannuation scheme, other than a foreign superannuation scheme,—
- (a) an amount in the fund at the time it becomes a superannuation scheme retains its nature; and

- (b) the following sections apply to a withdrawal from the superannuation scheme as if the scheme were a superannuation fund:
- (i) sections CS 1 to CS 17, section EZ 22 (Withdrawals on or between 14 and 30 September from late balance date superannuation funds), and section NEA 1 (Recovery of tax paid by superannuation fund); and
 - (ii) sections 32A, 32B, and 32C of the Tax Administration Act 1994.

Market value of amounts

- (2) The size of an amount in the superannuation fund at the time it becomes a superannuation scheme is calculated according to market value.

Origin:	(1) CL 17(1). (2) CL 17(2).
Defined terms:	amount, foreign superannuation scheme, superannuation fund, superannuation scheme, withdrawal.

CS 15 Superannuation fund becomes foreign superannuation scheme

If a superannuation fund becomes a foreign superannuation scheme, every amount in the superannuation fund is treated as if it had been withdrawn immediately before the fund became a foreign superannuation scheme.

Origin:	CL 18.
Defined terms:	amount, foreign superannuation scheme, superannuation fund.

CS 16 Superannuation scheme becomes superannuation fund

If a superannuation scheme becomes a superannuation fund, every amount in the superannuation scheme at the time it becomes a superannuation fund is treated as being a member's contribution to the superannuation fund.

Origin:	CL 19.
Defined terms:	amount, member's contribution, superannuation fund, superannuation scheme.

Treatment of distributions when superannuation fund winds up

CS 17 Superannuation fund winds up

When a superannuation fund is wound up, a distribution related to a member's membership is treated as being a withdrawal.

Origin:	CL 20.
Defined terms:	distribution, member, superannuation fund, withdrawal.

CT – Income from petroleum mining

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CT 1 Disposal of exploratory material or petroleum mining asset

Disposal of exploratory material

- (1) An amount that a petroleum miner derives from disposing of exploratory material is income of the petroleum miner.

Disposal of petroleum mining asset

- (2) An amount that a petroleum miner derives from disposing of a petroleum mining asset is income of the petroleum miner.

Farm-out arrangements for petroleum mining

- (3) This section is overridden by section CX 38 (Farm-out arrangements for petroleum mining).

Origin:	(1) CJ 3. (2) CJ 3. (3) CJ 3.
Defined terms:	amount, derived, exploratory material, farm-out arrangement, income, petroleum miner, petroleum mining asset.
Comment:	The reference in current section CJ 3 to 'consideration received' from the disposal of a petroleum mining asset has been replaced by reference to an amount being 'derived' from the disposal. This is consistent with other provisions that identify income derived from disposals of property and consistent with draft section BD 3 (3), which establishes that income from business activity is derived when the income-earning process is complete.

CT 2 Damage to permit-specific assets

An amount that a petroleum miner derives for damage to a permit-specific asset is income of the petroleum miner.

Origin:	CJ 5.
Defined terms:	amount, derived, income, permit-specific asset, petroleum miner.
Comment:	The reference in current section CJ 5 to 'consideration' for damage to a permit-specific asset has been replaced by reference to an amount being 'derived' for the damage. This is consistent with draft section BD 3 (3), which establishes that income from business activity is derived when the income-earning process is complete.

CT 3 Disposal of interests in controlled petroleum mining entities

Disposal of shares or trust interests

- (1) An amount that a person derives from disposing of shares or trust interests in a controlled petroleum mining entity is income of the person. This subsection is overridden by subsection (2).

Exception

- (2) Subsection (1) does not apply if the sum of percentage A and percentage B is less than 10%. For the purposes of this subsection,—
- (a) percentage A is the shares or trust interests in the controlled petroleum mining entity that the person disposes of in the income year in which they derive the amount, as a percentage of the shares or trust interests in the controlled petroleum mining entity that they held at the start of the income year:
 - (b) percentage B is the shares or trust interests in the controlled petroleum mining entity that the person disposes of during the 2 income years before the income year in which they derive the amount, as a percentage of the shares or trust interests in the controlled petroleum mining entity that they held at the start of the income year in which the amount is derived.

Origin:	(1) CJ 6(1). (2) CJ 6(2).
Defined terms:	amount, controlled petroleum mining entity, derived, disposal, income, income year, person, share.

CT 4 Disposal of interests in controlled petroleum mining entities by longer-term holders

Who this section applies to

- (1) This section applies to a person who—
- (a) derives income under section CT 3 (1); and
 - (b) held, on 1 October 1990, the shares or trust interests from the disposal of which that income is derived.

Amount

- (2) The amount of income that the person derives is the difference between the amount derived from the disposal and the market value, on 1 October 1990, of the shares or trust interests disposed of.

Origin:	(1) CJ 7(1)(a). (2) CJ 7(1)(a).
Defined terms:	amount, controlled petroleum mining entity, derived, income, person, share.

CT 5 Petroleum mining operations outside New Zealand

Sections CT 1 to CT 4 and CT 6, CX 38, DT 1 to DT 21, EK 9 to EK 12, EZ 2, GC 12, and IH 3 (all of which are sections dealing with petroleum mining) apply to a petroleum miner who undertakes petroleum mining operations that are—

- (a) outside New Zealand and undertaken through a branch or a controlled foreign company; and
- (b) substantially the same as the activities governed by those sections.

Origin:	DM 7(1).
Defined terms:	controlled foreign company, New Zealand, petroleum miner, petroleum mining operations.
Comment:	Current section DM 7 (2), which relates to the application of the Crown Minerals Act 1991 by analogy with the equivalent provisions of another country, has been moved to section 91 of the Tax Administration Act 1994 (see the consequential amendments in volume 3).

CT 6 Partnership interests and disposal of part of asset

When this section applies

- (1) This section applies for the purposes of—
- (a) sections CT 1 to CT 5, CX 38, DT 1 to DT 21, EK 9 to EK 12, EZ 2, GC 12, IH 3 (all of which are sections dealing with petroleum mining); and
- (b) section 91 of the Tax Administration Act 1994.

Partner's share

- (2) A partner's share or interest in a petroleum permit or other property of the partnership to which the sections specified in subsection (1) apply is the same as the partner's income interest in the partnership.

Disposal of part of asset

- (3) References in the sections in subsection (1) to the disposal of an asset apply equally to the disposal of part of an asset.

Origin:	(1) DM 9; DM 10. (2) DM 9. (3) DM 10.
Defined terms:	petroleum permit.

CT 7 ‘Petroleum miner’ defined

Meaning

- (1) **Petroleum miner**, in relation to a petroleum permit, means a person who—
- (a) undertakes one or more of the activities described in subsection (2); and
 - (b) is not excluded by subsection (3).

Activities

- (2) The activities are—
- (a) prospecting or exploring for petroleum:
 - (b) developing a permit area for the production of petroleum:
 - (c) producing petroleum and treating it at the production facilities:
 - (d) processing, transmitting, or storing petroleum before its dispatch to a buyer, consumer, processor, refinery, or user:
 - (e) removal or restoration operations.

Exclusion

- (3) **Petroleum miner** does not include a person who—
- (a) undertakes an activity described in subsection (2) for reward that is not in the form of, or contingent on,—
 - (i) the production of petroleum from the permit area; or
 - (ii) profits from the production of petroleum from the permit area; or
 - (iii) an interest or a right to an interest in the petroleum area; or
 - (b) further treats crude oil, condensate, or natural gas (after the well stream has been separated and stabilised into those substances)—
 - (i) by liquefaction or compression; or
 - (ii) for extraction of constituent products; or
 - (iii) for the production of derivative products.

Origin:	(1) OB 1 'development operations', 'further processing', 'petroleum miner'. (2) OB 1 'development operations', 'further processing', 'petroleum miner'. (3) OB 1 'development operations', 'further processing', 'petroleum miner'.
Defined terms:	natural gas, permit area, person, petroleum, petroleum miner, petroleum permit, removal or restoration operations.

CT 8 'Petroleum mining asset' defined

Meaning

(1) **Petroleum mining asset**—

(a) means—

(i) a permit-specific asset that a petroleum miner acquires for use in a permit area for or in connection with one or more of the activities described in subsection (2) and that has an estimated useful life that depends on and is no longer than the remaining life of the petroleum permit for the area; and

(ii) a petroleum permit; and

(b) does not include an asset acquired to further treat crude oil, condensate, or natural gas (after the well stream has been separated and stabilised into those substances)—

(i) by liquefaction or compression; or

(ii) for extraction of constituent products; or

(iii) for the production of derivative products.

Activities

(2) The activities are—

(a) developing a permit area for producing petroleum:

(b) producing petroleum and treating it at the production facilities:

(c) processing, transmitting, or storing petroleum before its dispatch to a buyer, consumer, processor, refinery, or user:

(d) removal or restoration operations.

Share or partial interest

(3) A share or partial interest in an asset described in subsection (1) is a petroleum mining asset.

Permits

(4) A permit that replaces a petroleum permit is a petroleum mining asset.

Land

(5) Land is not a petroleum mining asset.

Origin:	(1) OB 1 'development operations', 'further processing', 'permit specific asset', 'petroleum mining asset'. (2) OB 1 'development operations'. (3) OB 1 'petroleum mining asset'. (4) OB 1 'petroleum mining asset', 'petroleum permit'. (5) OB 1 'permit specific asset', 'petroleum mining asset'.
Defined terms:	permit area, permit-specific asset, petroleum, petroleum miner, petroleum mining asset, petroleum permit, removal or restoration operations.

CU – Income from mineral mining

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Introductory provision

CU 1 Mining company's two kinds of income

Income derived by a mining company is either income from mining or income other than income from mining.

Origin:	DN 1(2).
Defined terms:	derived, income, income from mining, mining company.

Income from mining

CU 2 Mining company that processes or manufactures

When this section applies

- (1) This section applies when—
 - (a) a mining company—
 - (i) obtains specified minerals from its mining operations;
or
 - (ii) through a combination of its mining operations and its associated mining operations, brings specified minerals to the stage at which they are ready to be processed or used in a manufacturing operation; and
 - (b) the company produces products by processing the specified minerals or using them in a manufacturing operation; and
 - (c) the company disposes of the products.

Income classified

- (2) For the income year in which the mining company disposes of the products, the Commissioner classifies the mining company's income from the disposal as income from mining or income other than income from mining. The Commissioner classifies the income by apportioning it under subsection (3) or by making a decision under subsection (4).

Apportionment

- (3) In apportioning the income, the Commissioner makes an appropriate apportionment of the value of the stock of products on hand at the start and end of the income year and takes into account the matters the Commissioner considers relevant and appropriate, including—
 - (a) the capital employed, or the expenditure or losses incurred, in the mining operations, associated mining operations, and processing of the specified minerals or the use of the specified minerals in a manufacturing operation:
 - (b) the extent of the steps involved in the mining operations, associated mining operations, and processing of the specified minerals or the use of the specified minerals in a manufacturing operation.

Decision

- (4) In making a decision, the Commissioner takes into account the amount that would have been—
- (a) the value received or receivable for the specified minerals if they had been disposed of in the income year to a wholly independent person in the state in which they resulted from the mining operations or the combination of mining operations and associated mining operations; and
 - (b) the value of the products on hand at the end of the income year if the specified minerals from which they came had been valued for the purposes of subpart EC (Valuation of trading stock (including dealers' livestock)) in the state in which they resulted from the mining operations or the combination of mining operations and associated mining operations.

Origin:	(1) DN 1(4)(a), (b). (2) DN 1(4). (3) DN 1(4)(c). (4) DN 1(4)(d).
Defined terms:	amount, associated mining operations, Commissioner, income, income from mining, income year, mining company, mining operations, specified mineral.

CU 3 Disposal of assets

When this section applies

- (1) This section applies when—
- (a) a mining company acquires an asset, including mining prospecting information or a mining or prospecting right, by incurring mining exploration expenditure or mining development expenditure; and
 - (b) the company, whether or not still a mining company, disposes of the asset.

This subsection is overridden by subsection (2).

When this section does not apply

- (2) This section does not apply when—
- (a) a mining company acquires an asset, including mining prospecting information or a mining or prospecting right, by incurring mining exploration expenditure or mining development expenditure; and
 - (b) the company, whether or not still a mining company, passes the ownership of the asset to another person; and
 - (c) the passing of ownership is not because the asset is sold to the other person; and

- (d) the company does not receive, and is not entitled to receive, consideration for the passing of ownership; and
- (e) the company and the other person deal with each other over the passing of ownership at arm's length, even if they are associated persons at a time relevant to the passing of ownership.

Consideration

- (3) Subsections (4) to (8) describe the consideration that the company is treated as receiving for the asset and the consideration that the person who acquired the asset from the company is treated as giving for it.

Consideration in various cases

- (4) The consideration is,—
 - (a) in a case other than one described in any of subsections (5) to (8), the consideration that the company derives from the disposal of the asset:
 - (b) in the case described in subsection (5), the consideration specified in the subsection for the disposal of the asset:
 - (c) in the case described in subsection (6), the consideration specified in the subsection for the disposal of the asset:
 - (d) in the case described in subsection (7), the consideration specified in subsection (8) for the disposal of the asset.

Consideration other than in cash

- (5) If some or all of the consideration for the disposal is other than cash, and the disposal is not to an associated person, the consideration that is not in cash has the value agreed between the company and the person to whom the asset is disposed of. If the company and the person do not agree, or if the Commissioner considers that the value agreed is unreasonable, the consideration that is not in cash has the value that the Commissioner decides.

Disposal to associated person

- (6) If the disposal is to an associated person, the consideration for the disposal is the market value that the asset has on the date of the disposal.

When subsection (8) applies

- (7) Subsection (8) applies when—
 - (a) the company disposes of the asset to a person acquiring it for use in carrying on mining operations or associated mining operations or a mining venture; and
 - (b) the company and the person give notice to the Commissioner that they have agreed to apply subsection (8); and

- (c) the notice is given to the Commissioner within one of the following times:
 - (i) the time within which the company is required to file a return of income for the income year in which it disposes of the asset;
 - (ii) a further time allowed by the Commissioner; and
- (d) the notice specifies an amount that—
 - (i) is not more than the market value that the asset has at the date of the disposal; and
 - (ii) is not less than the amount of any part of the consideration that is in cash.

Amount specified by parties to disposal

- (8) The consideration for the disposal is the amount that the company and the person specify in the notice.

Origin:	(1) DN 1(9)(a), (b), first proviso. (2) DN 1(9), second proviso. (3) DN 1(9), (12)(b). (4) DN 1(10)(b). (5) DN 1(10)(a). (6) DN 1(10)(c). (7) DN 1(10)(c), (d), (11). (8) DN 1(10)(c).
Defined terms:	amount, asset, associated mining operations, associated person, Commissioner, derived, income year, mining company, mining development expenditure, mining exploration expenditure, mining operations, mining or prospecting right, mining prospecting information, mining venture, notice, person, return of income.

CU 4 Compensation for lost, destroyed, or damaged assets

When sections CU 5 to CU 8 apply

- (1) Sections CU 5 to CU 8 apply when—
 - (a) a mining company acquires an asset by incurring mining exploration expenditure or mining development expenditure; and
 - (b) the company is allowed a deduction for the expenditure under—
 - (i) section DU 3 (Mining exploration expenditure and mining development expenditure); or
 - (ii) section 153F of the Land and Income Tax Act 1954, section 27 of the Land and Income Tax Act Amendment Act 1971, or section 216 of the Income Tax Act 1976; and

- (c) the asset is lost, destroyed, or damaged; and
- (d) the company, whether or not still a mining company,—
 - (i) is paid compensation for the loss, destruction, or damage; and
 - (ii) is entitled to receive payment for any scrap of the asset that it disposes of.

What sections CU 5 to CU 8 apply to

- (2) Sections CU 5 to CU 8 apply to any asset that a mining company acquires by incurring mining exploration expenditure or mining development expenditure but, if such an asset is used to derive income other than income from mining and section CU 10 is applied to it, sections CU 5 to CU 8 apply to the asset only if it is later used to derive income from mining and section DU 7 (Non-mining asset used to derive income from mining) is applied to it.

Origin:	(1) DN 1(13). (2) DN 1(13).
Defined terms:	asset, deduction, derived, income, income from mining, mining company, mining development expenditure, mining exploration expenditure.

CU 5 Compensation and scrap payment: income from mining

Income

- (1) When this section applies, the total of the following is income from mining of the company:
 - (a) the amount of compensation paid; and
 - (b) the amount (if any) payable to the company for the disposal of any scrap of the asset.

Allocation

- (2) The income from mining is allocated to the income year in which the compensation is paid.

Relationship with sections CU 6 to CU 8

- (3) This section is overridden by sections CU 6 to CU 8.

Origin:	(1) DN 1(13). (2) DN 1(13). (3) DN 1(14).
Defined terms:	amount, asset, income from mining, income year.

CU 6 Compensation and scrap payment: use to replace or repair asset

Choice between section CU 5 and sections CU 7 and CU 8

- (1) If the company wants sections CU 7 and CU 8 to apply instead of section CU 5, it must comply with subsection (2).

Choice of sections CU 7 and CU 8

- (2) The company must—
- (a) give notice to the Commissioner that the compensation will be used to replace or repair the asset; and
 - (b) give the notice within the time within which the company must file a return of income for the income year in which the loss, destruction, or damage occurred; and
 - (c) start the replacement or repair by the end of the second income year after the income year in which the loss, destruction, or damage occurred.

Origin:	(1) DN 1(14). (2) DN 1(14).
Defined terms:	asset, Commissioner, income year, notice, return of income.

CU 7 Compensation and scrap payment: not income from mining

When this section applies, neither of the following is income from mining of the company:

- (a) the amount of compensation paid; or
- (b) the amount (if any) payable to the company for the disposal of any scrap of the asset.

Origin:	DN 1(14)(a), (b).
Defined terms:	amount, asset, income from mining.

CU 8 Compensation and scrap payment: more than expenditure

When this section applies

- (1) This section applies when—
- (a) the company complies with section CU 6 (2); and
 - (b) the company incurs expenditure in replacing or repairing the asset; and
 - (c) the company has an excess amount because the expenditure is less than the total of the following:
 - (i) the amount of compensation paid; and
 - (ii) the amount (if any) payable to the company for the disposal of any scrap of the asset.

Income

- (2) The excess amount is income from mining of the company, whether or not the company is still a mining company when the excess amount is determined.

Allocation

- (3) The income from mining is allocated to the income year in which the replacement or repair of the asset is in fact completed or is treated as completed.

When replacement or repair treated as completed

- (4) The replacement or repair, even if not in fact completed, is treated as completed—
- (a) on the last day of the period, if any, specified by the Commissioner as a reasonable period within which to complete the replacement or repair; or
 - (b) on the day on which work on the replacement or repair stops; or
 - (c) on the day on which the asset is transferred from the company's mining operations and used, wholly or mainly, to derive income other than income from mining; or
 - (d) on the day on which the company disposes of the asset other than for scrap; or
 - (e) on the day on which the company stops being a mining company.

Limitation on calculation of excess amount

- (5) The expenditure incurred after the last day of the period is not taken into account to determine the existence or amount of an excess amount for the purposes of subsection (1)(c).

Origin:	(1) DN 1(14)(e). (2) DN 1(14)(e). (3) DN 1(14)(e). (4) DN 1(14)(e), (g), (h), (i). (5) DN 1(14)(g), (h), (i).
Defined terms:	amount, asset, Commissioner, derived, income, income from mining, income year, mining company, mining operations.

CU 9 Previous deduction for income appropriated

Income

- (1) An amount equal to the amount for which a mining company is allowed a deduction under section DU 6 (Income appropriated to expenditure) is income from mining of the mining company.

Allocation

- (2) The income is allocated to the income year following the income year in which the mining company is allowed the deduction.

Company ceasing mining

- (3) A mining company that ceases to be a mining company before the end of the income year to which the income is allocated is treated as if it were still a mining company in the income year.

Origin:	(1) DN 1(6)(b). (2) DN 1(6)(b). (3) DN 1(6)(b) proviso.
Defined terms:	amount, deduction, income from mining, income year, mining company.

CU 10 Mining asset used to derive income other than income from mining

When this section applies

- (1) This section applies when—
- (a) a mining company acquires an asset by incurring mining exploration expenditure or mining development expenditure; and
 - (b) the company uses the asset, wholly or mainly, to derive income other than income from mining.

Income

- (2) An amount equal to the market value that the asset has on the date it was first used, wholly or mainly, to derive income other than income from mining is income from mining of the mining company.

Allocation

- (3) The income is allocated to the income year in which the asset is first used, wholly or mainly, to derive income other than income from mining.

Company ceasing mining

- (4) A mining company that ceases to be a mining company before the end of the income year to which the income is allocated is treated as if it were still a mining company in the income year.

Origin:	(1) DN 1(8). (2) DN 1(8). (3) DN 1(8). (4) DN 1(8).
Defined terms:	asset, derived, income, income from mining, income year, mining company, mining development expenditure, mining exploration expenditure.

CU 11 ‘Asset’ defined for sections CU 3 to CU 10

Mining company’s share or interest in asset

- (1) Sections CU 3 to CU 10 apply to a share or interest that a mining company has in an asset—
 - (a) to the extent to which the mining company acquired the share or interest by incurring—
 - (i) mining exploration expenditure or mining development expenditure; or
 - (ii) the exploration expenditure or development expenditure referred to in section 27 (3)(a) of the Land and Income Tax Amendment Act 1971; and
 - (b) to the extent to which the mining company uses the share or interest for the purpose of deriving income from mining.

Partner’s share or interest in asset

- (2) For the purposes of sections CU 3 to CU 10, a partner’s share or interest in each asset of the partnership is the same as the partner’s interest in the totality of the assets of the partnership.

Replaced or repaired asset

- (3) For the purposes of sections CU 3 to CU 10,—
 - (a) an asset that a mining company acquires by incurring expenditure in replacing or repairing the asset is the same asset as the one that was lost, destroyed, or damaged:
 - (b) part of an asset that a mining company acquires by incurring expenditure in repairing the asset is part of the asset that was damaged.

Origin:	(1) DN 1(16). (2) DN 1(17). (3) DN 1(14)(f).
Defined terms:	asset, derived, income from mining, mining company, mining development expenditure, mining exploration expenditure.

CU 12 Resident mining operators

Sections in this subpart applying to resident mining operators

- (1) Sections CU 1 to CU 8, CU 10, and CU 11 apply, with any necessary modifications, to resident mining operators as if resident mining operators were mining companies.

Application of section CU 4

- (2) Section CU 4 applies with the additional modification that in section CU 4 (1)(b)(ii) the words ‘section 153F of the Land and Income Tax Act 1954, section 27 of the Land and Income Tax Act Amendment

Act 1971,’ are replaced by ‘section 153J of the Land and Income Tax Act 1954, section 31 of the Land and Income Tax Act Amendment Act (No 2) 1972,’.

Application of section CU 11

- (3) Section CU 11 applies with the additional modification that in section CU 11 (1)(a)(ii) the words ‘section 27 (3)(a) of the Land and Income Tax Amendment Act 1971’ are replaced by ‘paragraph (i) of item “a” of the formula in section 31 (3) of the Land and Income Tax Amendment Act (No 2) 1972’.

Origin:	(1) DN 4(1), (5), (7). (2) DN 4(7)(c). (3) DN 4(5)(f).
Defined terms:	mining company, resident mining operator.

CU 13 Non-resident mining operators

Sections in this subpart applying to non-resident mining operators

- (1) Sections CU 3 to CU 11 apply, with any necessary modifications, to non-resident mining operators as if non-resident mining operators were mining companies, income from mining were income from a mining venture, mining operations were mining ventures, and associated mining operations were mining ventures.

Application of section CU 4

- (2) Section CU 4 applies with the additional modification that in section CU 4 (1)(b)(ii) the words ‘section 153F of the Land and Income Tax Act 1954, section 27 of the Land and Income Tax Act Amendment Act 1971,’ are replaced by ‘section 153J of the Land and Income Tax Act 1954, section 31 of the Land and Income Tax Act Amendment Act (No 2) 1972,’.

Application of section CU 11

- (3) Section CU 11 applies with the additional modification that in section CU 11 (1)(a)(ii) the words ‘section 27 (3)(a) of the Land and Income Tax Amendment Act 1971’ are replaced by ‘paragraph (i) of item “a” of the formula in section 31 (3) of the Land and Income Tax Amendment Act (No 2) 1972’.

Origin:	(1) DN 5(2)(a), (c). (2) DN 5(2)(c)(iv). (3) DN 5(2)(a)(ix).
Defined terms:	associated mining operations, income from mining, mining company, mining operations, mining venture, non-resident mining operator.

CU 14 Disposal of mining shares acquired with reinvestment profit

When this section applies

- (1) This section applies when—
- (a) a company derives an amount from disposing of a mining share, including a disposal described in section CU 17; and
 - (b) an amount of the company's reinvestment profit is used in calculating the deduction for the cost of the mining share under section DU 11 (3)(b) (Disposal of mining shares by company).

Income

- (2) The lesser of the following amounts is income of the company:
- (a) the amount derived from the disposal of the mining share minus the deduction for the cost of the mining share; and
 - (b) the amount of reinvestment profit used in calculating the deduction for the cost of the mining share.

Allocation

- (3) The income is allocated to the income year in which the mining share is disposed of.

Relationship with sections CX 39 and CX 40

- (4) This section is overridden by section CX 39 (Disposal of mining shares) and section CX 40 (Disposal of mining shares acquired with reinvestment profit).

Origin:	(1) DN 2(7), (8)(c). (2) DN 2(7). (3) DN 2(7). (4) DN 2(7).
Defined terms:	amount, company, deduction, derived, income, income year, mining share, reinvestment profit.

CU 15 Reinvestment profit not used for mining purposes

When subsections (2) and (3) apply

- (1) Subsections (2) and (3) apply when some or all of a company's reinvestment profit—
- (a) is used for purposes other than mining purposes within the prescribed period; and
 - (b) will not be used for mining purposes within the prescribed period.

Income

- (2) The amount of reinvestment profit described by subsection (1) is income of the company.

Allocation

- (3) The income is allocated to the income year in which the amount is used for purposes other than mining purposes.

When subsections (5) and (6) apply

- (4) Subsections (5) and (6) apply when none of a company's reinvestment profit is used for mining purposes within the prescribed period.

Income

- (5) The reinvestment profit is income of the company.

Allocation

- (6) The income is allocated to the last income year of the prescribed period.

No longer reinvestment profit

- (7) The amount referred to in subsection (2) and the reinvestment profit referred to in subsection (5) cease to be reinvestment profit.

Origin:	(1) DN 2(3). (2) DN 2(3). (3) DN 2(3). (4) DN 2(4). (5) DN 2(4). (6) DN 2(4). (7) DN 2(4), (5).
Defined terms:	amount, company, income, income year, mining purposes, prescribed period, reinvestment profit.

CU 16 Repayment of loans made from reinvestment profit

When this section applies

- (1) This section applies when—
- (a) a company (the lender company) makes a loan to a mining company or a mining holding company; and
 - (b) the loan is made wholly or partly out of the lender company's reinvestment profit; and
 - (c) the loan is wholly or partly repaid.

Income

- (2) The amount calculated using the formula in subsection (3) is income of the lender company.

Formula

(3) The formula is—

$$\frac{\text{reinvestment profit amount}}{\text{loan amount}} \times \text{repayment.}$$

Definition of items in formula

(4) In the formula,—

- (a) **reinvestment profit amount** is the amount of the loan made out of the lender company's reinvestment profit:
- (b) **loan amount** is the amount of the loan:
- (c) **repayment** is the amount repaid.

Allocation

(5) The income is allocated to the income year in which the repayment is made.

Relationship with section CX 41

(6) This section is overridden by section CX 41 (Repayment of loans made from reinvestment profit).

Origin:	(1) DN 2(5). (2) DN 2(5). (3) DN 2(5). (4) DN 2(5). (5) DN 2(5). (6) DN 2(5).
Defined terms:	amount, company, income, income year, mining company, mining holding company, reinvestment profit.

CU 17 Mining company or mining holding company liquidated

If a mining company or a mining holding company is liquidated,—

- (a) a share held in the company is treated as disposed of to the company; and
- (b) a distribution received for the share on the liquidation is treated as an amount received for the disposal.

Origin:	DN 2(8).
Defined terms:	amount, liquidation, mining company, mining holding company, share.

Definitions

CU 18 Income from mining

Meaning

- (1) **Income from mining** means the part of the income of a mining company that is derived in an income year from the company's mining operations or associated mining operations in the income year.

Resident mining operators and non-resident mining operators

- (2) This definition applies to resident mining operators as if they were mining companies, and to non-resident mining operators as if they were mining companies, mining operations were mining ventures, and associated mining operations were mining ventures.

Origin:	(1) OB 1 'gross income from mining'. (2) DN 4(4); DN 5(1).
Defined terms:	associated mining operations, derived, income, income year, mining company, mining operations, mining venture, non-resident mining operator, resident mining operator.

CU 19 Mining company

Meaning

- (1) **Mining company** means a New Zealand company to which one of the following applies:
- (a) the company's only source of income is the business described in subsection (2); or
 - (b) the company's main source of income is the business described in subsection (2); or
 - (c) the company's only activity is one of the activities described in subsection (3); or
 - (d) the company's main activity is one of the activities described in subsection (3); or
 - (e) the company proposes that its only activity or its main activity be one of the activities described in subsection (3).

Business

- (2) The business referred to in subsection (1)(a) and (b) is the business of mining a specified mineral in New Zealand.

Activities

- (3) The activities referred to in subsection (1)(c), (d), and (e) are—
- (a) exploring, searching, or mining for a specified mineral in New Zealand; or

- (b) performing development work for exploring, searching, or mining for a specified mineral in New Zealand.

Service for reward

- (4) An activity described in subsection (3) does not include an activity done or to be done as a service to another person for reward unless the reward—
 - (a) is wholly or mainly related to and dependent on the production of the specified mineral; or
 - (b) arises wholly or mainly through participation in profits from the production of the specified mineral.

Origin:	(1) DN 1(1). (2) DN 1(1); OB 1 'New Zealand company'. (3) DN 1(1)(a). (4) DN 1(1)(b).
Defined terms:	business, income, mining company, New Zealand, New Zealand company, person, specified mineral.

CU 20 Mining development expenditure

Meaning

- (1) **Mining development expenditure** means development expenditure that a mining company incurs in its mining operations or associated mining operations.

Inclusions

- (2) **Mining development expenditure** includes expenditure that the company incurs—
 - (a) on acquiring land as a site for its mining operations or associated mining operations:
 - (b) on preparing the site for its mining operations or associated mining operations:
 - (c) on restoring the site during or after its mining operations or associated mining operations:
 - (d) on any of the following for its mining operations or associated mining operations:
 - (i) buildings, mineshafts, platforms, tunnels, wells, or other improvements:
 - (ii) plant or machinery, including vehicles:
 - (iii) production equipment or facilities:
 - (iv) storage facilities:
 - (e) on vessels or aircraft for use wholly or mainly in its mining operations or associated mining operations:

- (f) on providing, or contributing to the cost of providing, communication equipment, fuel, light, power, or water for the site of its mining operations or associated mining operations:
- (g) on buildings or facilities that—
 - (i) are situated at, or adjacent to, the site of any of its mining operations or associated mining operations; and
 - (ii) are for use in the education, housing, or welfare of, or the supply of meals to, its employees in its mining operations or associated mining operations or in the education, housing, or welfare of, or the supply of meals to, the employees' dependants:
- (h) on providing, or contributing to the cost of providing, communication equipment, fuel, light, power, or water for the buildings or facilities described in paragraph (g).

Exclusions

- (3) **Mining development expenditure** does not include expenditure that the company incurs—
 - (a) on a building or facility provided for the purpose of deriving income:
 - (b) on an office building that is not situated at, or adjacent to, the site of any of its mining operations or associated mining operations.

Resident mining operators and non-resident mining operators

- (4) This definition applies to resident mining operators as if they were mining companies, and to non-resident mining operators as if they were mining companies, mining operations were mining ventures, and associated mining operations were mining ventures.

Origin:	(1) OB 1 'development expenditure' para (d). (2) OB 1 'development expenditure' para (d). (3) OB 1 'development expenditure' para (d). (4) DN 4(4); DN 5(1).
Defined terms:	associated mining operations, derived, employee, income, mining company, mining operations, mining venture, non-resident mining operator, resident mining operator.

CU 21 Mining exploration expenditure

Meaning

- (1) **Mining exploration expenditure** means expenditure that a mining company incurs in exploring or searching in New Zealand for a specified mineral.

Inclusions

- (2) **Mining exploration expenditure** includes expenditure that the company incurs—
- (a) on acquiring mining prospecting information:
 - (b) on acquiring a mining or prospecting right:
 - (c) on geological mapping and geophysical surveys:
 - (d) on systematic searches for areas containing specified minerals:
 - (e) on searching by drilling in areas containing specified minerals:
 - (f) on searching for ore containing a specified mineral within or in the vicinity of an ore body by crosscuts, drilling, drives, rises, shafts, or winzes.

Exclusions

- (3) **Mining exploration expenditure** does not include—
- (a) mining development expenditure:
 - (b) expenditure on operations in the course of working a mining property.

Resident mining operators and non-resident mining operators

- (4) This definition applies to resident mining operators as if they were mining companies, and to non-resident mining operators as if they were mining companies, mining operations were mining ventures, and associated mining operations were mining ventures.

Origin:	(1) OB 1 'exploration expenditure' para (c). (2) OB 1 'exploration expenditure' para (c). (3) OB 1 'exploration expenditure' para (c). (4) DN 4(4); DN 5(1).
Defined terms:	associated mining operations, mining company, mining development expenditure, mining operations, mining or prospecting right, mining prospecting information, mining venture, New Zealand, non-resident mining operator, resident mining operator, specified mineral.

CU 22 Mining operations

Meaning

- (1) **Mining operations** means operations that—
- (a) are carried on by a mining company on a mining property in New Zealand for the purpose of deriving income; and
 - (b) consist of—
 - (i) exploring, searching, or mining for one or more specified minerals; or
 - (ii) performing development work for exploring, searching, or mining for one or more specified minerals.

Resident mining operators and non-resident mining operators

- (2) This definition applies to resident mining operators as if they were mining companies, and to non-resident mining operators as if they were mining companies, mining operations were mining ventures, and associated mining operations were mining ventures.

Origin:	(1) OB 1 'mining operations'. (2) DN 4(4); DN 5(1).
Defined terms:	associated mining operations, derived, income, mining company, mining operations, mining venture, New Zealand, non-resident mining operator, resident mining operator, specified mineral.

CU 23 Mining venture

Meaning

- (1) **Mining venture** means a venture that—
- (a) is carried on, or is proposed to be carried on,—
 - (i) in New Zealand; and
 - (ii) as a business; and
 - (iii) under an exploration permit, prospecting permit, or mining permit granted under the Crown Minerals Act 1991 or under an existing privilege as defined in section 106 of the Act; and
 - (b) consists, or is proposed to consist, wholly or mainly of—
 - (i) exploring, searching, or mining for a specified mineral in New Zealand; or
 - (ii) performing development work for exploring, searching, or mining for a specified mineral in New Zealand.

Service for reward

- (2) An activity described in subsection (1)(b) does not include an activity done or to be done as a service to another person for reward unless the reward—
- (a) is wholly or mainly related to and dependent on the production of the specified mineral; or
 - (b) arises wholly or mainly through participation in profits from the production of the specified mineral.

Activities not carried on jointly

- (3) If a mining venture is carried on, or is proposed to be carried on, by 2 or more persons jointly, but one of them carries on an activity of the kind described in subsection (1)(b) otherwise than jointly with the others, the

carrying on of the activity is not a mining venture of the person and the others.

Origin:	(1) OB 1 'mining venture'. (2) OB 1 'mining venture'. (3) OB 1 'mining venture'.
Defined terms:	business, mining venture, New Zealand, person, specified mineral.

CU 24 Resident mining operator

Meaning

- (1) **Resident mining operator** means a person who—
- (a) is resident in New Zealand; and
 - (b) is not a mining company or a petroleum mining company; and
 - (c) carries on, or proposes to carry on, the activities of—
 - (i) exploring, searching, or mining for a specified mineral in New Zealand; or
 - (ii) performing development work for exploring, searching, or mining for a specified mineral in New Zealand.

How activities carried on

- (2) The person must carry on the activities described in subsection (1)(c), or propose to carry them on,—
- (a) personally and actively in the field; and
 - (b) as a business; and
 - (c) under an exploration permit, prospecting permit, or mining permit granted under the Crown Minerals Act 1991 or under an existing privilege as defined in section 106 of the Act.

Service for reward

- (3) An activity described in subsection (1)(c) does not include an activity done or to be done as a service to another person for reward unless the reward—
- (a) is wholly or mainly related to and dependent on the production of the specified mineral; or
 - (b) arises wholly or mainly through participation in profits from the production of the specified mineral.

Origin:	(1) OB 1 'resident mining operator'. (2) OB 1 'active miner'. (3) OB 1 'active miner'.
Defined terms:	mining company, New Zealand, person, petroleum mining company, resident in New Zealand, specified mineral.

CU 25 Other definitions

In this Act,—

associated mining operations means operations that—

- (a) are carried on in New Zealand in association with mining operations; and
- (b) consist of the accumulation, initial treatment, and transport of specified minerals, up to the stage at which the minerals—
 - (i) are in a saleable form and in a location suitable for a person to acquire them; or
 - (ii) are ready to be processed beyond the initial treatment or to be used in a manufacturing operation

holding company, for a mining company, means a company incorporated in New Zealand that holds shares, or for which shares are held, in the mining company

initial treatment, for a specified mineral,—

- (a) means—
 - (i) breaking, cleaning, crushing, grading, grinding, leaching, screening, or sizing; and
 - (ii) a treatment that is applied before concentration or, for a specified mineral not requiring concentration, that would have been applied before concentration if the specified mineral had required concentration; and
 - (iii) concentration; and
- (b) does not include—
 - (i) calcining or sintering; or
 - (ii) the production of, or processes carried on in connection with the production of, alumina, or pellets or other agglomerated forms of iron

loan, for a holding company and a mining company, means a loan by the holding company to the mining company

mineral—

- (a) means all minerals and metals; and
- (b) includes clay, coal, gravel, gum, kauri, precious stones, sand, and stone; and
- (c) does not include petroleum

mining holding company means a New Zealand company that is engaged wholly or mainly in—

- (a) holding shares in a mining company or a petroleum mining company; or
- (b) investing money in a mining company or a petroleum mining company; or
- (c) making loans to a mining company or a petroleum mining company

mining or prospecting right—

- (a) means an authority, concession, easement, lease, licence, option, permit, privilege, right, or title to explore, search, or mine for, or carry on an operation to recover, a specified mineral; and
- (b) includes a share or interest in any such authority, concession, easement, lease, licence, option, permit, privilege, right, or title

mining prospecting information means geological, geophysical, or technical information—

- (a) that is about the presence, absence, extent, or volume of specified minerals in an area; or
- (b) that is likely to assist in determining the presence, absence, extent, or volume of specified minerals in an area

mining purposes means—

- (a) subscribing for shares in a mining company or in a mining holding company; or
- (b) paying calls on shares in a mining company or in a mining holding company; or
- (c) making loans to a mining company to enable it—
 - (i) to finance its mining exploration expenditure or mining development expenditure; or
 - (ii) to carry on its mining operations or associated mining operations; or
- (d) making, to a mining holding company, loans that are to be used—
 - (i) to finance a mining company's mining exploration expenditure or mining development expenditure; or
 - (ii) to finance a mining company's mining operations or associated mining operations

mining share means a share in a mining company or a mining holding company

non-resident mining operator means a person who—

- (a) is not resident in New Zealand; and
- (b) carries on, personally and actively in the field, a mining venture

prescribed period means,—

- (a) for an amount derived from a disposal of a mining share, the income year in which the disposal occurs and the next 6 income years;
- (b) for an amount repaid for a loan made to a mining company or a mining holding company, the income year in which the amount is repaid and the next 6 income years

prescribed proportion means the proportion that amount A bears to amount B, when—

- (a) amount A is the amount owing on all loans made by a holding company to a mining company; and
- (b) amount B is the amount owing on all loans by all holding companies to the mining company

reinvestment profit means an amount that is excluded income of a company under any of sections CX 39 to CX 41 or under a corresponding provision of a former Act

specified mineral—

- (a) means alumina minerals (for example, bauxite, corundum, diaspore, and gibbsite), aluminous refractory clays and fireclays containing over 30% alumina in the fired state, andalusite, antimony, asbestos, barite, bentonite (except bentonite mined in Malvern), bituminous shale, chromite, copper, diatomite, dolomite, feldspar, fluorite, gold, halloysite, kaolin, kyanite, lead, magnesite, manganese, mercury, mica, molybdenite, nickel, perlite, phosphate, platinum group, pyrite, silica in lump form used only in producing silicon carbide, silica in sand form used only in producing silicon carbide, silicon metal or ferro silicon, sillimanite, silver, sodium chloride, sulphur, talc, tin, titanium, titanomagnetite, tungsten, uranium, wollastonite, zeolite, zinc, and zircon; and
- (b) includes a mineral that is declared to be a specified mineral in a *Gazette* notice given by the Minister.

Rewriting the Income Tax Act: Exposure Draft
Part C: Income

Origin:	DN 2(10); DN 3(12); OB 1.
Defined terms:	amount, associated mining operations, company, derived, excluded income, holding company, income year, initial treatment, loan, mining company, mining development expenditure, mining exploration expenditure, mining holding company, mining operations, mining prospecting information, mining share, mining venture, Minister, New Zealand, New Zealand company, person, petroleum, petroleum mining company, resident in New Zealand, share, specified mineral.

CV – Income specific to certain entities

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CV 1	Companies within wholly-owned groups
CV 2	Primary producer cooperative companies
CV 3	Crown Research Institutes

CV 1 Companies within wholly-owned groups

An amount that a company derives in an income year and that would not otherwise be income of the company is treated as its income if—

- (a) the company is for that income year a member of a wholly-owned group of companies; and
- (b) had the group of companies been a single company, the amount would have been income of that single company.

Origin:	CK 1.
Defined terms:	amount, company, derived, income, income year, wholly-owned group of companies.
Comment:	This section may well be best placed in Part F (Apportionment and recharacterised transactions).

CV 2 Primary producer cooperative companies

Sale of asset for which past deduction allowed

- (1) If a primary producer cooperative company disposes of an asset for which the company was allowed a deduction under (repealed) section 200 of the Income Tax Act 1976 for the 1987-88 or a previous income year, the company is treated as deriving income in the income year of disposal of a reasonable amount equal to the lesser of—

- (a) the total of all deductions relating to the asset that were allowed under (repealed) section 200; and
- (b) the amount that the company derived from the disposal of the asset.

Payments to shareholders when past deductions allowed

- (2) If a primary producer cooperative company has been allowed a deduction under (repealed) section 200 for the 1987-88 or a previous income year, and a payment has been made to a shareholder of the company either on the surrender of any of their shares or on the liquidation of the company, an appropriate part of the payment is

treated as income of the shareholder. The part that is income is determined under subsection (3).

Amounts attributable to deductions

- (3) Under subsection (2), the part of the payment that is treated as income is only such part as—
- (a) is more than the available subscribed capital per share calculated under the slice rule of the shares surrendered or held on liquidation by the shareholder; and
 - (b) is attributable to an increase in the value of the company's assets that was caused by the company applying or appropriating a deduction allowed under (repealed) section 200.

Definitions for this section

- (4) In this section,—

primary producer cooperative company means a company that, at the end of the 1987-88 income year,—

- (a) was a primary producer cooperative company within the meaning of (repealed) section 200 (1) and (9); and
- (b) could qualify for a deduction under (repealed) section 200 (4)

(repealed) section 200, or any similar expression, means section 200 of the Income Tax Act 1976 as it was in force before it was repealed by section 41 (1) of the Income Tax Amendment Act (No 5) 1988 (which, in general, allowed primary producer cooperative companies to claim a deduction for profits that were reinvested in certain defined primary produce activities and assets).

Origin:	(1) CK 3(1). (2) CK 3(2). (3) CK 3(2). (4) CK 3(3).
Defined terms:	amount, available subscribed capital, derived, income, income year, liquidation, primary producer cooperative company, (repealed) section 200, share, shareholder, slice rule.
Comment:	The Commissioner's discretion has been removed, as proposed in issues paper 1, p 19.

CV 3 Crown Research Institutes

A payment that a Crown Research Institute derives is income of the Institute if the payment is for the purpose of producing outputs relating to public good science and technology within the meaning of section 2 of the Foundation for Research, Science, and Technology Act 1990.

Origin:	CK 4(1).
Defined terms:	Crown Research Institute, derived, income.

CW – Exempt income

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Income from business or trade-like activities

CW 1 Forestry companies buying land with standing timber from Crown, Maori owners, or holding company

When this section applies

- (1) This section applies when a forestry company buys land with standing timber on it from a seller who is the Crown, the Maori owners, or a holding company of the forestry company.

When amount is exempt income

- (2) The amount that the seller derives from the sale of the standing timber is exempt income. The amount is worked out by following the steps in subsection (3).

Steps to get amount

- (3) The steps are,—
- (a) first, add the market value of the standing timber on the date of the sale (A) to the market value of the land (as if it did not have standing timber on it) on the date of the sale to give their combined market value (B):
 - (b) second, calculate what proportion of B is constituted by A:
 - (c) third, apply the proportion to the consideration for the sale to get the amount that is exempt.

Land sold by Maori Trustee, trustee for Maori owners, or Maori incorporation

- (4) For the purposes of subsection (1),—
- (a) land sold to the forestry company by the Maori Trustee or by a trustee for a Maori owner is treated as if it had been sold by the beneficial owners:
 - (b) land sold to the forestry company by a Maori incorporation is treated as if it had been sold by the members of the incorporation.

Origin:	(1) DL 5(1)(d)(i). (2) DL 5(1)(d)(i). (3) DL 5(1)(d)(iii). (4) DL 5(1)(d)(iii).
Defined terms:	amount, derived, exempt income, forestry company, holding company, Maori incorporation, Maori owners, standing timber, trustee.

CW 2 Forestry encouragement agreements

When this section applies

- (1) This section applies when a person makes a forestry encouragement agreement under the Forestry Encouragement Act 1962.

When advance is exempt income

- (2) An advance made to the person under the agreement is exempt income, even if the person is later relieved from some or all of their liability to repay the principal.

When interest is exempt income

- (3) The amount from which the person is relieved in the circumstances described in subsection (4) is exempt income.

Circumstances

- (4) The circumstances are as follows:
- (a) the person is liable to pay interest on an advance made under the agreement; and
 - (b) the interest has not been paid; and
 - (c) the person has not been allowed a deduction for the interest; and
 - (d) the person is relieved from some or all of their liability to pay the interest.

Origin:	(1) DL 6(2)(a). (2) DL 6(2)(a). (3) DL 6(2)(a), (3). (4) DL 6(2)(a), (3).
Defined terms:	amount, deduction, exempt income, interest, pay, person.

CW 3 Forestry companies and Maori investment companies

When this section applies

- (1) This section applies when a forestry company or a Maori investment company issues a qualifying debenture.

Exempt income

- (2) Interest derived from the qualifying debenture is exempt income if it is converted into capital by the issue of a further qualifying debenture.

Origin:	(1) DL 5(1)(a). (2) DL 5(1)(a).
Defined terms:	derived, exempt income, forestry company, interest, Maori investment company, qualifying debenture.

Income from holding property (excluding equity)

CW 4 Annuities under life insurance policies

When this section applies

- (1) This section applies when—
- (a) a person is paid an annuity under a life insurance policy offered or entered into in New Zealand by a life insurer; or
 - (b) a person is paid an annuity under a life insurance policy offered or entered into outside New Zealand by a life insurer resident in New Zealand.

Exempt income

- (2) The annuity is exempt income.

Excluded annuities

- (3) An annuity that is excluded income of a superannuation fund under section CX 36 (Superannuation fund deriving amount from life insurance policy) is not also exempt income of the fund under this section.

Origin:	(1) CB 9(f). (2) CB 9(f). (3) new.
Defined terms:	excluded income, exempt income, life insurance policy, life insurer, New Zealand, offered or entered into in New Zealand, person, resident in New Zealand, superannuation fund.

CW 5 Payments of interest: post-war credits

Interest derived by a person under section 2 of the Income Tax (Repayment of Post-War Credits) Act 1959 of the United Kingdom Parliament is exempt income.

Origin:	CB 1(1)(b).
Defined terms:	derived, exempt income, interest, person.

CW 6 Payments of interest: farm mortgages

Exempt income

- (1) Fifty percent of the interest that a person derives from a mortgage securing a loan made by a seller of a farm is exempt income, if—
- (a) the Rural Banking and Finance Corporation of New Zealand approves the mortgage; and
 - (b) the Corporation gives the Commissioner notice of the approval and each variation.

This subsection is overridden by subsection (2).

Exclusions

- (2) Subsection (1) does not apply if the person is—
- (a) an absentee; or
 - (b) a company; or
 - (c) a public authority; or
 - (d) a Maori authority; or
 - (e) an unincorporated body; or
 - (f) a trustee assessable and liable for income tax under sections HH 3 to HH 6, section HK 14 (Rents, royalties, or interest derived by Maori Trustee and not distributed), and section HZ 2 (Trust that may become qualifying trusts).

No rebate under section KE 1

- (3) A person who derives interest that is exempt income under this section is not entitled to a rebate for the interest under section KE 1 (Rebate for interest on home vendor mortgages).

Origin:	(1) CB 1(1)(c), (2). (2) CB 1(1)(c). (3) CB 1(1)(c).
Defined terms:	absentee, Commissioner, company, derived, exempt income, income tax, interest, Maori authority, mortgage, notice, payment, person, public authority, trustee.
Comment:	Current section CB 1 (1)(c) applies to interest on both farm vendor finance bonds and farm vendor mortgages. No farm vendor finance bonds are outstanding, so the reference to them has been removed, a change proposed in issues paper 1, page 4.

CW 7 Overseas interest payable during non-resident period

Interest that a person derives from a country or territory outside New Zealand is exempt income if—

- (a) the person was not resident in New Zealand during the period for which the interest was payable; and
- (b) the interest was exempt under the laws of the overseas country or territory from a tax that is substantially the same as income tax imposed under this Act.

Origin:	CB 2(1)(e).
Defined terms:	derived, exempt income, income tax, interest, New Zealand, pay, person, resident in New Zealand.

CW 8 Money lent to government of New Zealand

Interest payable out of New Zealand

- (1) Interest or a redemption payment that is payable outside New Zealand is exempt income if—
- (a) it is derived by a person who is a non-resident; and
- (b) it is derived from or in relation to money lent to—
- (i) the government of New Zealand; or
- (ii) a local authority or public authority, for the purposes of a non-commercial activity carried on in New Zealand by the local or public authority; and
- (c) in the case of money lent to a local or public authority, the government of New Zealand has approved the exempt status of the interest or redemption payment.

Application

- (2) The application of this section is dealt with in section CZ 4 (Income from certain money lent or redemption payments).

Origin:	(1) CB 2(1)(b). (2) CB 2(1)(b) proviso.
Defined terms:	derived, exempt income, interest, local authority, money lent, New Zealand, non-resident, pay, person, public authority, redemption payment.

Income from equity

CW 9 Dividend derived by company from offshore

Dividend exempt if derived by company from offshore

- (1) A dividend is exempt income if derived by a company that is resident in New Zealand from a foreign company.

Dividend withholding payment rules apply

- (2) The dividend withholding payment rules apply to the dividend.

Origin:	(1) CB 10(1). (2) CB 10(1).
Defined terms:	company, derived, dividend, dividend withholding payment rules, exempt income, foreign company, resident in New Zealand.

CW 10 Dividend within New Zealand wholly-owned group

Certain intra-group dividends exempt

- (1) A dividend is exempt income if—
- (a) it is derived by a company (the recipient) that is resident in New Zealand; and
 - (b) it is derived from a company (the payer) that is in the same wholly-owned group of companies as the recipient at the time the dividend is derived; and
 - (c) the payer is not a foreign company; and
 - (d) the payer is not a company that can derive only exempt income; and
 - (e) the requirements in subsections (2) to (7) are met.

Aligned balance dates

- (2) At the time the dividend is derived, either—
- (a) the recipient and the payer have income years that end on the same date; or

- (b) a difference in balance dates—
 - (i) is necessary to avoid a material distortion in the net income of one of them because aspects of a single business cycle would otherwise be split between two years; and
 - (ii) is not part of a tax avoidance arrangement.

Dividends from local authority trading enterprises

- (3) The dividend must not be derived by a local authority from—
 - (a) a local authority trading enterprise; or
 - (b) a port company, subsidiary company of a port company, or energy company that would be a local authority trading enterprise if section 594B(b)(ii) or (iia) of the Local Government Act 1974 did not exist.

Debt release dividends

- (4) The dividend must not be the release of an obligation to pay money, treated as a dividend under section CD 4 (2) (What is a transfer of value?).

Certain friendly society dividends

- (5) The dividend must not be derived by a friendly society from a company registered under section 199 of the Accident Insurance Act 1998 that is under the control of the society.

Certain sick, accident, or death benefit fund dividends

- (6) The dividend must not be derived by a trustee in trust for a sick, accident, or death benefit fund from a company registered under section 199 of the Accident Insurance Act 1998 that is under the control of the trustee.

Specified preference share dividends

- (7) This dividend must not be a dividend for which a deduction arises under section FZ 1 (Deductions for dividends paid on certain preference shares).

Origin:	(1) CB 10(2)(a), (b), (c). (2) CB 10(2)(d), (3). (3) CB 10(2)(e)(ii). (4) CB 10(2)(e)(iii). (5) CB 10(2)(e)(iv). (6) CB 10(2)(e)(v). (7) CB 10(2)(e)(i).
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Defined terms:	company, control, derived, dividend, exempt income, foreign company, friendly society, income year, local authority, local authority trading enterprise, net income, New Zealand, resident in New Zealand, sick, accident, or death benefit fund, specified preference shares, tax avoidance arrangement, trustee, wholly-owned group of companies.
Comment:	The Commissioner's discretion in current section CB 10 (2)(d)(ii) and (3) is removed because the criteria seem sufficiently objective. Section 594B (i) of the Local Government Act 1974 is now repealed. The current definition of 'control' in section OD 1 (Defining when a company is under the control of any persons) is now referred to in section OB 1 (Definitions) (see the amendments to section OB 1 in volume 3).

CW 11 Dividend of conduit tax relief holding company

Dividend to the extent that conduit tax relief credited

- (1) If a conduit tax relief holding company derives a dividend with a conduit tax relief credit attached, the dividend is exempt income to the extent to which it is fully conduit tax relief credited.

Conduit tax relief additional dividend

- (2) If a conduit tax relief holding company derives a conduit tax relief additional dividend, the conduit tax relief additional dividend is exempt income.

Origin:	(1) CB 10(4). (2) CB 10(5).
Defined terms:	conduit tax relief additional dividend, conduit tax relief holding company, derived, dividend, exempt income, fully conduit tax relief credited.

Employee or contractor income

CW 12 Income of Governor-General

The salary and allowance (and any other benefit in money) of the Governor-General in that office, or the salary paid under section 8 of the Civil List Act 1979 to a person acting as Administrator of the government, is exempt income.

Origin:	CB 7(a), (b).
Defined terms:	exempt income, person.

CW 13 Reimbursement of employees and expenditure for their benefit

When expenditure exempt

- (1) Expenditure incurred by an employer in connection with an employee's employment or service is exempt income of the employee to the extent to which the employer incurs the expenditure—
 - (a) in reimbursing the employee, when the employee would have been allowed a deduction for that expenditure if the employment limitation did not exist:
 - (b) being expenditure on account of an employee, when the employee would, if they had incurred the expenditure, have been allowed a deduction for that expenditure if the employment limitation did not exist.

Estimated expenditure

- (2) For the purposes of subsection (1), an employer may make a reasonable estimate of the expenditure that they are likely to incur in a pay period in reimbursing either an employee or a group of employees. The estimated expenditure is treated as the amount incurred in that period.

Origin:	(1) CB 12(1). (2) CB 12(3), (3B), (3C).
Defined terms:	amount, deduction, employee, employer, employment limitation, exempt income, expenditure on account of an employee, pay period.

CW 14 Allowance for additional transport costs

When allowance exempt

- (1) An allowance that an employee receives from an employer to reimburse the employee's additional transport costs is exempt income to the extent to which the employee incurs the costs in connection with their employment and for the employer's benefit or convenience.

Estimated expenditure

- (2) An employer may make a reasonable estimate of the expenditure that they are likely to incur in a pay period in reimbursing either an employee or a group of employees. The estimated expenditure is treated as the amount incurred in that period.

'Additional transport costs' defined

- (3) In this section, **additional transport costs** means the costs to an employee of travelling between their home and place of work that are more than would ordinarily be expected. The costs must be attributable to one or more of the following factors:
 - (a) the day or time of day when the work duties are performed:

- (b) the need to transport any goods or material in the course of the employee's work:
- (c) the requirement to fulfil a statutory obligation:
- (d) a temporary change in the employee's place of work while in the same employment:
- (e) any other condition of the employee's work:
- (f) the absence of an adequate public passenger transport service that operates fixed routes and a regular timetable for the employee's place of work.

Quantifying additional transport costs

- (4) Additional transport costs are quantified as follows:
 - (a) when the additional transport costs are attributed to a factor described in any of subsection (3)(a) to (e), the amount by which the costs are more than the employee's ordinarily expected travel costs without reference to that factor:
 - (b) when the additional transport costs are attributed to the absence of an adequate public passenger transport service as described in subsection (3)(f), the amount by which the costs are more than \$5 for each day on which the employee attends work.

But, except in special circumstances, the costs of travelling any distance over 70 kilometres in one day are not taken into account in calculating additional transport costs.

Origin:	(1) CB 12(2). (2) CB 12(3A), (3B), (3C). (3) CB 12(2)(c) and (4). (4) CB 12(4).
Defined terms:	additional transport costs, amount, employee, employer, exempt income, pay period.

CW 15 Amounts derived during short-term visits

Personal or professional services by short-term visitors

- (1) An amount that a non-resident person derives from performing personal or professional services in New Zealand during a visit is exempt income if—
 - (a) the visit is not for more than 92 days (counting the days of arrival and departure as a whole day each); and
 - (b) the total of that visit and all other visits to New Zealand by the person in the same income year is not more than 92 days; and
 - (c) the services are performed for or on behalf of a person who is not resident in New Zealand; and

- (d) the amount derived from the personal or professional services are chargeable in the country or territory in which the person is resident with a tax that is substantially the same as income tax imposed under this Act.

Public entertainers

- (2) Subsection (1) does not apply to the income of a public entertainer, although such income may be exempt under section CW 16. In this section, **public entertainer** includes circus performers, dancers, lecturers, motion picture artists, musicians, radio artists, singers, television artists, and theatre artists, and athletes, boxers, wrestlers, and other professional sportspersons.

Origin:	(1) CB 2(1)(c) second proviso. (2) CB 2(1)(c) first proviso.
Defined terms:	amount, derived, exempt income, income, income tax, income year, New Zealand, non-resident, person, public entertainer, resident in New Zealand.
Comment:	Current section CB 2 (1)(c) exempts personal services income earned by visitors to New Zealand if the visit 'does not exceed a period of 92 days'. This draft section makes clear that the day of arrival and the day of departure each counts as a whole day for the purpose of calculating the 92-day period. The change makes the provision consistent with current section OE 1 (4) (Determination of residence of person other than a company), which directs part days to be included when calculating the 183-day period for residency, and is a clarification proposed in issues paper 1, page 6.

CW 16 Amounts derived by visiting entertainers (including sportspersons)

Sponsored cultural activities

- (1) An amount that a visiting non-resident entertainer derives from an activity or performance is exempt income if—
- (a) the activity or performance occurs as part of a cultural programme of an overseas government or the government of New Zealand, or as part of a cultural programme sponsored wholly or partly by an overseas government or the government of New Zealand; or
 - (b) the activity or performance occurs as part of a programme of an overseas foundation, trust, or other organisation that—
 - (i) exists wholly or partly to promote cultural activity; and
 - (ii) is not carried on for the private pecuniary profit of any person, directly or indirectly.

Official sporting activities

- (2) An amount that a visiting non-resident entertainer derives from an activity or performance that relates to a game or sport is exempt income if the participants are the official representatives of the body that administers the game or sport in an overseas country.

Employer of non-resident entertainer

- (3) If an amount derived from an activity or performance of a non-resident entertainer would be exempt income under this section if derived by the non-resident entertainer, that amount is exempt income if derived by a person who—
- (a) is the employer of that entertainer, or a company or other body of which the non-resident entertainer is an officer or principal; and
 - (b) provides the services of the non-resident entertainer during the visit to New Zealand.

'Non-resident entertainer' defined

- (4) In this section, **non-resident entertainer** means a non-resident person within the meaning of subpart OE (Source of income and residence) who, during a visit to New Zealand, performs or participates in an activity or performance in connection with—
- (a) a solo or group performance by actors, compères, dancers, entertainers, musicians, singers, or other artists, whether for cultural, educational, entertainment, religious, or other purposes; or
 - (b) lectures, speeches, or talks for any purpose; or
 - (c) a sporting event or sporting competition of any nature.

Origin:	(1) CB 2(1)(a)(i) and (ii). (2) CB 2(1)(a)(iii). (3) definition of 'non-resident entertainer' in Income Tax (Withholding Payments) Regulations 1979, SR 1979/259. (4) definition of 'non-resident entertainer' in Income Tax (Withholding Payments) Regulations 1979, SR 1979/259.
Defined terms:	amount, company, derived, employer, exempt income, New Zealand, non-resident, non-resident entertainer, person.
Comment:	Current section CB 2 (1)(a)(ii) denies exempt status to a visiting non-resident entertainer if the activity or performance occurs under the programme of an overseas foundation, trust, or other organisation that is not carried on for the private pecuniary profit of any proprietor, member, or shareholder. However, the policy underlying that wording is defeated if any person, not just a proprietor, member, or shareholder, is able to obtain a private pecuniary profit. The class 'any proprietor, member or shareholder' has therefore been widened to 'any person' in draft

subsection (1)(b)(ii). This change was proposed in issues paper 1, page 5. The qualifier 'directly or indirectly' has also been added, as this is also consistent with the underlying policy.

CW 17 Amounts derived by overseas experts and trainees in New Zealand by government arrangement

Personal or professional services

- (1) An amount that a non-resident person derives from performing personal or professional services in New Zealand is exempt income if—
- (a) the services are provided under an arrangement for assistance entered into by the government of New Zealand; and
 - (b) the services are for or on behalf of a non-resident employer; and
 - (c) the purpose of the services is all or any of the following:
 - (i) providing professional or expert advice or assistance;
 - (ii) teaching or lecturing;
 - (iii) making investigations;
 - (iv) receiving education, training, or experience.

Maintenance and bursaries

- (2) An amount that a non-resident derives from a payment of maintenance, an allowance, scholarship, or bursary provided for or paid to that person in New Zealand is exempt income if—
- (a) provided under an arrangement for assistance entered into by the government of New Zealand; and
 - (b) provided for all or any of the following purposes:
 - (i) providing professional or expert advice or assistance;
 - (ii) teaching or lecturing;
 - (iii) making investigations;
 - (iv) receiving education, training, or experience.

Definitions for this section

- (3) In this section,—

arrangement for assistance entered into by the government of New Zealand means an arrangement entered into by the government of New Zealand—

- (a) in relation to or under—
 - (i) the Commonwealth Education Scheme; or
 - (ii) a programme of the United Nations, or any specialised agency of the United Nations, for cultural, economic, educational, expert, professional, or technical assistance; or

- (b) for the purpose of providing education, training, or experience for officers of the Samoan, Cook Islands, Niuean, or Tokelauan public services, or for persons resident in Samoa, the Cook Islands, Niue, or Tokelau; or
- (c) with the government of any other country or with any international organisation, if it is an arrangement that—
 - (i) is for the purpose of providing cultural, economic, educational, expert, professional, or technical assistance, or administrative or other training, or the means or facilities for making investigations, whether upon a bilateral, cooperative, multilateral, mutual, or unilateral basis; and
 - (ii) is in principle similar to any arrangement to which paragraph (a) or paragraph (b) applies

international organisation means an organisation whose members are sovereign powers, whether foreign sovereign powers or countries of the Commonwealth, or the governments of those powers or countries

non-resident means a person who would not be resident in New Zealand, if they were not present in New Zealand under the arrangement for assistance entered into by the government of New Zealand (and for the purpose of determining the residence of the person, but not that of the employer referred to in subsection (1)(b), this is determined without reference to section OE 1 (2) (Determination of residence of person other than a company)).

Origin:	(1) CB 2(1)(d), (2), (4). (2) CB 2(1)(d). (3) CB 2(3), (4).
Defined terms:	amount, arrangement, arrangement for assistance entered into by the government of New Zealand, Commonwealth, derived, employer, exempt income, international organisation, New Zealand, non-resident, person, resident in New Zealand.
Comment:	References in current section CB 2 (4) to the Colombo Plan, the South East Asia Treaty Organisation, and the Japanese Cultural and Technical Assistance Fund are obsolete and have been removed. A current reference to 'Western Samoa' has been updated to 'Samoa'.

CW 18 Income for military service in operational area

Service in an operational area

- (1) The pay and allowances that a person derives from the government of New Zealand are exempt income if, and to the extent to which,—
 - (a) the person is engaged in a naval, military, or air force raised in New Zealand or in another part of the Commonwealth; and

- (b) the pay and allowances relate to a period of service in an operational area.

Sickness, injury, or disablement

- (2) A person's service in an operational area continues even if they are sick, injured, or disabled during their service, unless the sickness, injury, or disability is caused by their negligence or misconduct. The service continues until the person is certified as fit for further service (whether in an operational area or elsewhere) or discharged from the force.

Operational area

- (3) For the purposes of this section, there exists a special committee comprising the Prime Minister, the Minister of Defence, and the Minister of Finance. The committee may define an area as an operational area, and may prescribe the rules for computing a person's period of service in the operational area. Notice of the committee's determinations must be given in orders issued by the Service Board concerned.

'Pay and allowances' defined

- (4) In this section, **pay and allowances** does not include a regular force gratuity, or a bonus or bounty for re-engagement in a regular force.

Origin:	(1) CB 11(1). (2) CB 11(2). (3) CB 11(3), (4), (5). (4) CB 11 (6).
Defined terms:	Commonwealth, derived, exempt income, New Zealand, operational area, pay and allowances, person.

CW 19 Deferred pay for active military service

Deferred pay

- (1) Deferred pay that is granted or paid under the Defence Act 1990 to a person for service in the New Zealand armed forces in an active service area is exempt income.

Definitions for this section

- (2) In this section,—

active service area means an area outside New Zealand that is designated as an active service area by the Minister of Defence, with the agreement of the Minister of Finance

deferred military pay means pay declared to be deferred by the Minister of Defence, with the agreement of the Minister of Finance.

Origin:	(1) CB 9(b)(i). (2) CB 9(b)(ii).
Defined terms:	active service area, deferred military pay, exempt income, New Zealand, person.

CW 20 Value of board for religious society members

The value of personal board and lodging and other basic personal necessities received by a member of a religious society or order is exempt income if the member's sole occupation is service in that society or order, and it is a condition of that service that members are neither paid for their services nor receive a reward for them (other than those necessities).

Origin:	CB 6(b).
Defined terms:	exempt income.
Comment:	The current requirement that the member of the religious society or order be unmarried has been removed. This is consistent with the policy underlying the Human Rights Act 1993.

CW 21 Jurors' and witnesses' fees

Fees paid by the Crown to jurors and to witnesses (other than expert witnesses) are exempt income.

Origin:	CB 6(c).
Defined terms:	exempt income.

Income from living allowances, compensation, and government grants

CW 22 Pensions

Exempt pensions

- (1) The following pensions are exempt income:
 - (a) a pension or allowance under the War Pensions Act 1954 or a government pension relating to any war or to disability attributable to or aggravated by service in the armed forces or police force (but not a veteran's pension):
 - (b) a payment of portable New Zealand superannuation:
 - (c) a payment of portable veteran's pension:
 - (d) an overseas pension:

'Overseas pension' defined

- (2) In this section, **overseas pension** means—
 - (a) an overseas pension, to the extent of sums subtracted by the department that is currently responsible for administering the

Social Security Act 1964 under section 70 of that Act from a monetary benefit paid under Part I or under the Social Welfare (Transitional Provisions) Act 1990 (other than New Zealand superannuation or a veteran's pension):

- (b) an overseas pension to the extent to which it is subject to an arrangement under section 70(3) of the Social Security Act 1964 (but this exemption does not extend to the equivalent amount of New Zealand superannuation, veteran's pension, or income-tested benefit).

Origin:	(1) CB 5(1)(a), (f), (fa), (n), (o); CB 7(c); CB 9(f). (2) CB 5(1)(f), (fa).
Defined terms:	amount, exempt income, income-tested benefit, New Zealand superannuation, overseas pension, portable New Zealand superannuation, portable veteran's pension, veteran's pension.

CW 23 Annuities

The following annuities are exempt income:

- (a) an annuity under a life insurance policy offered or entered into in New Zealand, or outside New Zealand if the life insurer is resident in New Zealand:
- (b) an annuity from the Crown Bank Account that is granted by the Executive Council of New Zealand and not designated as being subject to tax.

Origin:	CB 7(c); CB 9(f).
Defined terms:	exempt income, life insurance policy, life insurer, New Zealand, offered or entered into in New Zealand, resident in New Zealand, tax.

CW 24 Maintenance payments

The following payments are exempt income:

- (a) child support or spousal maintenance under the Child Support Act 1991:
- (b) a payment in the nature of maintenance out of money belonging to a person's spouse or former spouse.

Origin:	CB 9(a).
Defined terms:	exempt income, person.

CW 25 Scholarships and bursaries

A payment for maintenance or an allowance for attendance at an education institution under a scholarship or bursary (but not a basic grant or independent circumstances grant under section 303 of the Education Act 1989) is exempt income.

Origin:	CB 9(d).
Defined terms:	exempt income.

CW 26 Allowances and benefits

Payments

- (1) The following payments are exempt income:
- (a) a monetary benefit under the Social Security Act 1964, except an income-tested benefit:
 - (b) a payment under Part 5 or Part 13 of the Accident Insurance Act 1998 to an insured person for treatment or rehabilitation:
 - (c) a payment under Part 5 or Part 13 of the Accident Insurance Act 1998 of an independence allowance, a funeral grant, a survivor's grant, or a childcare payment:
 - (d) a participation allowance under regulations made under the Social Security Act 1964:
 - (e) a disabled workshop payment:
 - (f) an amount derived by a trustee of a trust created for the benefit of persons harmed by thalidomide, or a distribution to a beneficiary from the trust:
 - (g) an amount derived by a trustee of the New Zealand Agent Orange Trust that represents the settlement fund and income attributable to the fund, or a distribution to a beneficiary from the Trust.

'Disabled workshop payment' defined

- (2) In this section, **disabled workshop payment** means a payment to a disabled person for undertaking therapeutic activities in a sheltered workshop within the meaning of the Disabled Persons Employment Promotion Act 1960 or in a similar workshop, when the sums are not more than \$50 per week as an average amount in an income year.

Origin:	(1) CB 5(1)(e), (l), (m), (q); CB 6(a), (e). (2) CB 6(a).
Defined terms:	amount, derived, disabled workshop payment, distribution, exempt income, income, income year, income-tested benefit, person, trustee.

CW 27 Compensation payments

Exempt income

- (1) The following payments are exempt income:
- (a) a payment relating to incapacity for work:
 - (b) a payment under the Workers Compensation Act 1956:
 - (c) a payment under the Criminal Injuries Act 1963:

- (d) a distribution from funds approved by the Minister in charge of War Pensions to ex-prisoners of war held in German concentration camps in World War II:
- (e) a payment under the laws of a State of the Federal Republic of Germany or the Republic of Austria to the victims of National Socialist persecution:
- (f) payments under the first schedule to the Crown Forest Assets Act 1989 (except clause 3(b)):
- (g) payments of compensation, solatium payments, or payments to lessors for the purchase of leases under the Maori Reserved Land Amendment Act 1997 (but not interest paid under section 23 of that Act).

Definitions for this section

- (2) In this section,—

accident insurance contract has the meaning given to it by section 13 of the Accident Insurance Act 1998

payment relating to incapacity for work means a payment to a person who is incapacitated for work—

- (a) under section 25 of the National Provident Fund Act 1950:
- (b) by a friendly society, but not the payments referred to in paragraph (c) or (d) of the definition of the term **accident compensation payment** in section CF 1 (2) (Benefits, pensions, compensation, and government grants):
- (c) from a sick, accident, or death benefit fund to which the person was a contributor when the period of incapacity began, but not the payments referred to in paragraph (c) or (d) of the definition of the term **accident compensation payment** in section CF 1 (2) (Benefits, pensions, compensation, and government grants):
- (d) under a policy of personal sickness or accident insurance, or an accident insurance contract, but not the payments referred to in paragraph (c) or (d) of the definition of the term **accident compensation payment** in section CF 1 (2) (Benefits, pensions, compensation, and government grants), nor any payment calculated according to loss of earnings or profits.

Origin:	(1) CB 5(1)(b), (c), (g), (h), (j), (k), (n), (p). (2) CB 5(1)(g), (h).
Defined terms:	accident insurance contract, exempt income, friendly society, interest, lease, lessor, pay, payment relating to incapacity for work, person, sick, accident, or death benefit fund.

Income of certain entities

CW 28 Public authorities

Public authority income

- (1) The following amounts are exempt income:
- (a) an amount derived by a public authority:
 - (b) an amount derived from sinking funds relating to the public debt.

Amounts received in trust

- (2) The exemption does not apply to an amount that a public authority derives as a trustee.

Superannuation schemes

- (3) The exemption does not apply to a public authority to the extent to which it is a superannuation scheme.

Certain public authorities

- (4) The exemption does not apply to an amount derived by the following public authorities:
- (a) the Public Trustee:
 - (b) State enterprises:
 - (c) Crown Research Institutes:
 - (d) the department or ministry that is currently responsible for administering the Marketing Act 1936, if the amount is derived for a function that the department or ministry exercises under that Act.

'Public authority' defined

- (5) In this section, **public authority** includes the Reserve Bank of New Zealand.

Origin:	(1) CB 3(a), (c). (2) CB 3(b)(i). (3) CB 3(a)(iv). (4) CB 3(a). (5) CB 3(e).
Defined terms:	amount, Crown Research Institute, derived, exempt income, public authority, State enterprise, superannuation scheme, trustee.

CW 29 Local authorities

Local authority income

- (1) The following amounts are exempt income:
- (a) an amount derived by a local authority;
 - (b) an amount derived from sinking funds relating to the debt of a local authority.

Amounts received in trust

- (2) The exemption does not apply to an amount that a local authority derives as a trustee.

Certain amounts from commercial undertakings

- (3) The exemption does not apply to—
- (a) an amount (other than rates) derived by a local authority from—
 - (i) a local authority trading enterprise; or
 - (ii) a port company, subsidiary of a port company, or energy company, if the company is of a kind described in subsection (4); or
 - (b) an amount derived by a local authority in its capacity as a port operator within the meaning of section 38 (4) of the Port Companies Act 1988, from a port-related commercial undertaking within the meaning of that section.

Port companies and energy companies

- (4) The port companies and subsidiaries and energy companies referred to in subsection (3)(a)(ii) are those of a kind that—
- (a) are referred to in paragraph (b)(ii) and (ia) of the definition of the term **local authority trading enterprise** in section 594B (1) of the Local Government Act 1974; and
 - (b) would be local authority trading enterprises within the meaning of that section if they were not excluded by that paragraph (b).

Origin:	(1) CB (3)(b), (c). (2) CB 3(b)(i). (3) CB 3(b)(ii), (iii). (4) CB 3(b)(ii), (iii).
Defined terms:	amount, derived, exempt income, local authority, local authority trading enterprise, trustee.

Comment: Current section CB 3 (b)(i) exempts any amount derived by a local authority other than 'an amount received in trust'. The draft provision makes clear that the amounts intended to be exempted are amounts which a local authority receives *as a trustee*. This clarification was proposed in issues paper 2, page 2.

A reference to airport companies in current section CB 3 (b)(ii)(B) has been obsolete since July 2000, when section 594B of the Local Government Act 1974 ceased to exclude airport companies from the definition of 'local authority trading enterprise' in that section. The reference has therefore been omitted from draft subsections (3) and (4).

CW 30 Charities: non-business income

Charitable trusts and bodies

- (1) The following amounts are exempt income:
- (a) an amount derived by a trustee in trust for charitable purposes:
 - (b) an amount derived by a society or institution established exclusively for charitable purposes and not carried on for the private pecuniary profit of any individual.

Business income

- (2) The exemption under this section does not apply to an amount derived from a business carried on by or for a charitable trust, society, or institution. Such an amount may, however, qualify for an exemption under section CW 31.

Income from trust assets in certain cases

- (3) For the purposes of subsection (2), a trust is treated as carrying on a business in the circumstances described in section CW 31 (7) (which relates to the disposal of assets to a trust when the person disposing of them retains an interest in them).

Local authority trading enterprise income

- (4) The exemption under this section does not apply to an amount derived by—
- (a) a local authority trading enterprise; or
 - (b) a local authority from a local authority trading enterprise.

Origin: (1) CB 4(1)(c).
(2) CB 4(1)(c).
(3) CB 4(1)(c), (e) second proviso (vi).
(4) CB 4(3).

Defined terms: amount, business, charitable purpose, derived, exempt income, local authority trading enterprise, local authority, person, trustee.

CW 31 Charities: business income

Business income

- (1) An amount derived directly or indirectly from a business carried on by or for a charitable trust, society, or institution of a kind referred to in section CW 30 (1) is exempt income if—
- (a) the charitable activities of the trust, society, or institution are carried out in New Zealand; and
 - (b) no person with some control over the business is able to direct or divert, to their own benefit or advantage, an amount derived from the business.

When charitable activities extend beyond New Zealand

- (2) If the charitable activities of the trust, society, or institution are not limited to New Zealand, an amount derived from the business in an income year is apportioned reasonably between those activities in New Zealand and those outside New Zealand. Only the part apportioned to the New Zealand activities is exempt income.

Benefit or advantage

- (3) For the purposes of subsection (1)(b), a benefit or advantage to a person—
- (a) may or may not be something that is convertible into money;
 - (b) unless excluded under paragraph (d), includes deriving an amount that would be income of the person under one or more of the following provisions:
 - (i) section CA 1 (2) (Amounts that are income):
 - (ii) sections CB 1 to CB 21 (which relate to income from business or trade-like activities):
 - (iii) section CB 29 (Obtaining property by theft):
 - (iv) section CC 1 (Revenue from land), sections CC 3 to CC 9 (which relate to income from holding property), and section CC 11 (Royalties):
 - (v) section CD 1 (Income):
 - (vi) section CE 1 (Employment income) and section CE 8 (Attributed income from personal services):
 - (vii) section CF 1 (Benefits, pensions, compensation, and government grants):
 - (viii) section CG 3 (Bad debt repayment):
 - (ix) section CQ 1 (Attributed CFC income) and section CQ 4 (FIF income):

- (c) includes retaining or reserving an interest in an asset in the case described in subsection (6), if the person has disposed of an asset to a trust:
- (d) does not include earning interest on money lent, if the interest is payable at no more than the current commercial rate, given the nature and term of the loan.

Measure of control over business

- (4) For the purposes of subsection (1)(b) for an income year, a person is treated as having some control over the business, and as being able to direct or divert amounts from the business to their own benefit or advantage if, in the income year,—
 - (a) the person is, in any way, whether directly or indirectly, able to determine or materially influence the nature or extent of a relevant benefit or advantage, or the circumstances in which it can be afforded, or received, or derived; and
 - (b) that ability to determine or influence the benefit or advantage arises because the person is—
 - (i) a settlor or trustee of the trust by which the business is carried on; or
 - (ii) a shareholder or director of the company by which the business is carried on; or
 - (iii) a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
 - (iv) a person associated with a settlor, trustee, shareholder, or director referred to in any of subparagraphs (i) to (iii).

Professional services

- (5) A person is not treated as having a measure of control of a business for the purposes of subsection (1)(b) merely because—
 - (a) the person provides professional services to the trust or company by which the business is carried on; and
 - (b) the ability to determine or materially influence a benefit or advantage results from the person providing the services in the course of and as part of the person carrying on, as a business, a professional public practice.

For the purposes of this subsection, the Public Trustee, the Maori Trustee, and a trustee company are treated as persons carrying on, as a business, a professional public practice.

Interest in asset disposed of to trust

- (6) For the purposes of this section, a person is treated as a settlor of a trust, and as gaining a benefit or advantage in the carrying on of a business of the trust, if—
- (a) they have disposed of an asset to the trust, and the asset is used by the trust in the carrying on of the business; and
 - (b) they retain or reserve an interest in the asset, or the asset will revert to them.

Income from certain assets

- (7) For the purposes of this section, a trustee is treated as carrying on a business if—
- (a) the trustee derives rents, fines, premiums, or other revenues from an asset of the trust; and
 - (b) the asset was disposed of to the trust by a person of a kind referred to in any of subsection (4)(b)(i) to (iv); and
 - (c) the person retains or reserves an interest in the asset, or the asset will revert to them.

Non-exempt business income

- (8) If an amount derived from the carrying on of a business by or for a charitable trust is not exempt income because of a failure to comply with subsection (1)(b), the amount is trustee income.

Local authority trading enterprise income

- (9) The exemption under this section does not apply to an amount derived by—
- (a) a local authority trading enterprise; or
 - (b) a local authority from a local authority trading enterprise.

Origin:	(1) CB 4(1)(e), (3). (2) CB 4(1)(e), (3). (3) CB 4(1)(e), (3). (4) CB 4(1)(e), (2), (3). (5) CB 4(1)(e), (3). (6) CB 4(1)(e), (3). (7) CB 4(1)(e), (3). (8) CB 4(1)(e), (3). (9) CB 4(1)(e), (3).
Defined terms:	amount, business, company, derived, director, exempt income, income, income year, interest, local authority, local authority trading enterprise, money lent, New Zealand, person, shareholder, trustee, trustee company, trustee income.

CW 32 Charitable bequests

Amounts derived pending distribution of estate

- (1) An amount that an executor or administrator of a deceased person derives is exempt income if—
- (a) the amount arises from or is attributable to assets of the estate that have been bequeathed or devised to a charitable trust, society, or institution of a kind referred to in section CW 30 (1); and
 - (b) the amount would be exempt income under section CW 30 or section CW 31 if derived by the charitable trust, society, or institution, or from a business carried on by or for the charitable trust, society, or institution.

Apportionment

- (2) When it is being determined whether an amount would be exempt under section CW 31, it must be considered whether any amount is apportioned to the charity's New Zealand activities under subsection (2) of that section.

Origin:	(1) CB 4(1)(d). (2) CB 4(1)(d).
Defined terms:	amount, business, derived, distribution, exempt income, New Zealand, person.

CW 33 Friendly societies

An amount that a friendly society derives is exempt income, except to the extent to which the amount is derived from—

- (a) a business carried on beyond the membership of the friendly society; or
- (b) a company registered as an insurer under the Accident Insurance Act 1998.

Origin:	CB 4(1)(a).
Defined terms:	amount, business, company, derived, exempt income, friendly society.

CW 34 Sick, accident, or death benefit fund

An amount derived by a trustee in trust for a sick, accident, or death benefit fund is exempt income. But this does not include an amount derived directly or indirectly from—

- (a) a business carried on by, or on behalf of, or for the benefit of, the trustee; or

- (b) a company registered under section 199 of the Accident Insurance Act 1998 that is under the control of that trustee.

Origin:	CB 5(1)(i).
Defined terms:	amount, business, company, derived, exempt income, sick, accident, or death benefit fund.

CW 35 Bodies promoting amateur games and sports

An amount that a club, society, or association derives is exempt income if—

- (a) the club, society, or association is established substantially or mainly for the purpose of promoting an amateur game or sport; and
- (b) the game or sport is conducted for the recreation or entertainment of the general public; and
- (c) no part of the funds of the club, society, or association is used or is available to be used for the private pecuniary profit of any person.

Origin:	CB 4(1)(h).
Defined terms:	amount, derived, exempt income, person.
Comment:	Current section CB 4 (1)(h) denies exempt status to a society or association established for promoting any amateur game or sport if any part of its funds are used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder. However, the policy underlying that wording is defeated if any person, not just a proprietor, member, or shareholder, is able to obtain a private pecuniary profit. The class 'any proprietor, member or shareholder' has therefore been widened to 'any person' in draft paragraph (c). This change was proposed in issues paper 1, page 5.

CW 36 TAB and racing clubs

Income of TAB and other specified bodies

- (1) An amount derived by any of the following bodies is exempt income:
- (a) the Totalisator Agency Board:
- (b) the New Zealand Racing Industry Board:
- (c) the New Zealand Racing Conference:
- (d) Harness Racing New Zealand:
- (e) the New Zealand Greyhound Racing Association (Incorporated).

Income of racing clubs

- (2) An amount derived by a racing club within the meaning of section 2 of the Racing Act 1971 is exempt income, if none of the club's funds is

used or are available to be used for the private pecuniary profit of a member of the club or a person associated with a member.

Origin:	(1) CB 4(1)(i)(i), (ii), (iii), (iv), (v). (2) CB 4(1)(i)(vi).
Defined terms:	amount, associated person, derived, exempt income.

CW 37 Local and regional promotion bodies

Income of bodies promoting local amenities

- (1) An amount that a society or association derives is exempt income if—
- (a) the society or association is established substantially or mainly to—
 - (i) advertise, beautify, or develop a city or other district so as to attract trade, tourists, visitors, or population; or
 - (ii) create, increase, or develop amenities for the general public in a city or other district; and
 - (b) none of the funds of the society or association is used, or is or may become available to be used, for any other purpose that is not a charitable purpose.

Trustees of Cornwall Park

- (2) An amount that the trustees of Cornwall Park, Auckland derive from the property of the trust is exempt income.

Local authority trading enterprise income

- (3) The exemption in subsection (1) does not apply to an amount derived—
- (a) by a local authority trading enterprise; or
 - (b) by a local authority from a local authority trading enterprise.

Origin:	(1) CB 4(1)(j). (2) CB 4(1)(l). (3) CB 4(3).
Defined terms:	amount, charitable purpose, derived, exempt income, local authority, local authority trading enterprise, trustee.

CW 38 Bodies promoting scientific or industrial research

Income of scientific bodies

- (1) An amount derived by a society or association established mainly to promote or encourage scientific or industrial research is exempt income if—
- (a) the society or association is approved by the Royal Society of New Zealand; and

- (b) no part of its funds is used or is available to be used for the private pecuniary profit of any person.

Crown Research Institutes

- (2) This exemption does not apply to a Crown Research Institute.

Origin:	(1) CB 4(1)(b). (2) CK 4(2).
Defined terms:	amount, Crown Research Institute, derived, exempt income, person.
Comment:	Current section CB 4 (1)(b) denies exempt status to a scientific or industrial research body if any part of its funds is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder. However, the policy underlying that wording is defeated if any person, not just a proprietor, member or shareholder, is able to obtain a private pecuniary profit. The class 'any proprietor, member, or shareholder' has therefore been widened to 'any person' in draft subsection (1)(b). This change was proposed in issues paper 1, page 5.

CW 39 Veterinary services bodies

Income of veterinary clubs

- (1) An amount derived by a veterinary club, society, or association is exempt income if—
- (a) the club, society, or association was established mainly to promote efficient veterinary services in New Zealand; and
- (b) none of its funds is used or is available to be used for the private pecuniary profit of any person.

Veterinary Council

- (2) An amount derived by the Veterinary Council of New Zealand is exempt income.

Origin:	(1) CB 4(1)(f). (2) CB 4(1)(f).
Defined terms:	amount, derived, exempt income, New Zealand, person.
Comment:	Current section CB 4 (1)(f) denies exempt status to a veterinary club, society, or association if any part of its funds is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder. However, the policy underlying that wording is defeated if any person, not just a proprietor, member, or shareholder, is able to obtain a private pecuniary profit. The class 'any proprietor, member or shareholder' has therefore been widened to 'any person' in draft subsection (1)(b). This change was proposed in issues paper 1, page 5.

CW 40 Herd improvement societies

An amount derived by a herd improvement society or association is exempt income if—

- (a) the society or association was established mainly to promote the improvement of the standard of dairy cattle in New Zealand; and
- (b) none of its funds is used or is available to be used for the private pecuniary profit of any person.

Origin:	CB 4(1)(g).
Defined terms:	amount, derived, exempt income, New Zealand, person.
Comment:	Current section CB 4 (1)(g) denies exempt status to a herd improvement society or association if any part of its funds is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder. However, the policy underlying that wording is defeated if any person, not just a proprietor, member, or shareholder, is able to obtain a private pecuniary profit. The class 'any proprietor, member or shareholder' has therefore been widened to 'any person' in draft paragraph (b). This change was proposed in issues paper 1, page 5.

Income from certain activities

CW 41 Non-resident aircraft operators

Income of non-resident aircraft operators

- (1) An amount that a non-resident aircraft operator derives from air transport from New Zealand is exempt income to the extent specified in subsection (2). This applies to some or all of the amount, and in an individual case or in a class of case.

Reciprocal treatment in country of residence

- (2) An amount that a non-resident aircraft operator or class of operators derives is treated as exempt income only if, and to the extent to which, the Commissioner determines that in corresponding circumstances aircraft operators resident in New Zealand are exempt from or are not liable to income tax imposed by the laws of the country or territory in which the non-resident aircraft operator or class of operators is resident. In this subsection, 'income tax' means a tax that is substantially the same as income tax imposed under this Act.

Definitions for this section

(3) In this section,—

air transport from New Zealand—

- (a) means the carriage outside New Zealand by an aircraft of cargo, mail, or passengers emplaned or embarked on the aircraft at an airport in New Zealand; and
- (b) if the aircraft calls at another airport in New Zealand before leaving New Zealand on the flight for which the emplaning or embarking occurred, includes that New Zealand portion of the flight

non-resident aircraft operator means a person who—

- (a) is engaged in the business of operating an aircraft for air transport from an airport; and
- (b) is resident in a country or territory outside New Zealand and is not resident in New Zealand.

Origin:	(1) CB 14(1). (2) CB 14(1). (3) CB 14(2).
Defined terms:	air transport from New Zealand, amount, business, Commissioner, derived, exempt income, income tax, New Zealand, non-resident aircraft operator, person, resident in New Zealand.

CW 42 Disposal of companies' own shares

An amount that a company derives from disposing of shares in the company is exempt income if the company acquires the shares and if the acquisition is treated by section 67A (1) of the Companies Act 1993 as not resulting in the shares being cancelled.

Origin:	CB 15.
Defined terms:	amount, cancellation, company, derived, exempt income, share.

CW 43 New Zealand companies operating in Niue

Company deriving income exclusively or mainly from Niue

- (1) An amount derived in an income year by a New Zealand company that derives its income wholly or mainly from Niue is exempt income. But this subsection does not apply if the company, if it were a foreign company, would at any time during the income year be a controlled foreign company.

Dividends from company

- (2) A dividend derived in an income year from a New Zealand company that derives its income wholly or mainly from Niue is exempt income, unless the dividend is derived by—
- (a) a person who is resident in New Zealand; or
 - (b) a company that is a controlled foreign company at any time during the income year; or
 - (c) a trustee of a trust of which a settlor or beneficiary is resident in New Zealand during the income year.

Niue development projects

- (3) An amount derived by a New Zealand company from a business or enterprise that the company carries on in Niue is exempt income if—
- (a) the business or enterprise is declared by an Order in Council made under subsection (6) to be a development project for the purposes of this section; and
 - (b) the company's income is derived wholly or mainly from that business or enterprise; and
 - (c) the amount is derived from sources in Niue; and
 - (d) the amount is derived while the Order in Council is in force.

New Zealand-sourced amounts

- (4) The exemptions under this section do not apply to—
- (a) an amount derived from sources in New Zealand; or
 - (b) a dividend, to the extent to which it constitutes distribution of an amount derived by the company from sources in New Zealand.

Attributed foreign income and foreign investment fund income

- (5) This section does not restrict the application of section CQ 1 (Attributed CFC income), section CQ 4 (FIF income), or the FIF rules. For the purposes of the FIF rules, a company that derives its income wholly or mainly from Niue and has exempt income under subsection (1) is treated as a foreign entity.

Order in Council declaring Niue development project

- (6) The Governor-General may, by Order in Council, declare a business or enterprise to be a development project for the purposes of this section if satisfied that the business or enterprise—
- (a) has been or will be entered upon wholly or mainly for the purpose of developing Niue; or
 - (b) is or will be important in the development of Niue.

Origin:	(1) CB 8(1)(a). (2) CB 8(1)(b). (3) CB 8(2). (4) CB 8(1)(a) proviso, (1)(b) proviso. (5) CB 8(4). (6) CB 8(3).
Defined terms:	amount, business, company, controlled foreign company, derived, dividend, exempt income, FIF rules, foreign company, foreign entity, foreign investment fund income, income, income year, New Zealand, New Zealand company, person, resident in New Zealand, trustee.

CW 44 Stake money

Stake or prize money for a horse race, trotting race, or dog race is exempt income if—

- (a) it is paid by a club that is licensed to use the totalisator under the Racing Act 1971; or
- (b) the race is held outside New Zealand.

Origin:	CB 9(c), (ca).
Defined terms:	exempt income, New Zealand.

General exemption under other Acts

CW 45 Exemption under other Acts

An amount expressly exempted from income tax by any other Act is exempt income.

Origin:	CB 9(e).
Defined terms:	amount, exempt income, income tax.

Income exempt under Parts F to I

CW 46 Exemption under Parts to be rewritten

An amount is exempt income if it is exempt under a provision in any of Parts F to I.

Origin:	BD 1(2)(a).
Defined terms:	amount, exempt income.

CX – Excluded income

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Goods and services tax

CX 1 Goods and services tax

GST amounts

- (1) The following amounts are excluded income of a person:
- (a) output tax that is charged, levied, or calculated under the Goods and Services Tax Act 1985;
 - (b) goods and services tax payable to the person by the Commissioner.

Exception for clawback of GST amount

- (2) Subsection (1) does not apply to an amount calculated under section 21F and section 21G of the Goods and Services Tax Act 1985 when the amount relates to the application of goods and services and is deductible under section 20 (3)(e) of that Act. But this subsection does not apply to an amount that relates to the application of a capital asset other than for the purpose of deriving income.

Origin:	(1) ED 4(1). (2) ED 4(3)(b), (g).
Defined terms:	amount, Commissioner, derived, excluded income, goods, goods and services tax, goods and services tax payable, income, output tax, person, services.

Fringe benefits

Introductory provisions

CX 2 When sections CX 2 to CX 34 apply and relationship with subpart ND

Benefits received in connection with employment

- (1) A benefit that an employer provides to an employee in connection with their employment, when it is not income of the employee (see section CX 5), nor exempt income of the employee (see section CX 6), is a fringe benefit and is excluded income of the employee.

Relationship with subpart ND

- (2) Sections CX 7 to CX 34 set out the circumstances in which benefits that an employer provides to an employee in connection with their employment are fringe benefits. For the calculation of the taxable value of fringe benefits, see subpart ND (Fringe benefit tax).

Origin:	(1) new. (2) new.
Defined terms:	employee, employer, employment, excluded income, exempt income, income.

CX 3 Past, present, or future employment

For the purposes of the fringe benefit tax rules, it is not necessary that an employment relationship is in existence when the employee receives the benefit.

Origin:	CI 2(1).
Defined terms:	employee, employment, fringe benefit tax rules.

CX 4 Arrangement to provide benefits

A benefit that is provided to an employee through an arrangement between their employer and another person is treated as having been provided by the employer.

Origin:	CI 2(1).
Defined terms:	arrangement, employee, employer, person.

CX 5 Employment income: relationship with subpart CE

To the extent to which a benefit that an employer provides to an employee in connection with their employment is employment income under section CE 1 (Amounts derived in connection with employment), or is otherwise their income under subpart CE (Employee or contractor income), the benefit is not a fringe benefit.

Origin:	CI 1(o)(i).
Defined terms:	employee, employer, employment, employment income, income.

CX 6 Exempt income: relationship with subpart CW

Exempt income not fringe benefit

- (1) To the extent to which a benefit that an employer provides to an employee in connection with their employment is exempt income under subpart CW (Exempt income), the benefit is not a fringe benefit. But this exclusion does not apply to—
- (a) an allowance that is exempt under section CW 13 (Reimbursement of employees and expenditure for their benefit) to the extent to which it is made to enable the employee to provide a benefit to another person:
 - (b) a payment of a premium on a life insurance policy that is excluded from being expenditure on account of an employee under section CE 2 (2) ('Expenditure on account of an employee' defined).

When cash payment would have been exempt income

- (2) To the extent to which a benefit that an employer provides to an employee in connection with their employment would have been exempt income if it had been paid in cash, the benefit is not a fringe benefit. But this exclusion does not apply to interest, dividends, or an allowance under subsection (1)(a).

Origin:	(1) CI 1(o)(ii). (2) CI 1(o)(iii).
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Defined terms: dividend, employee, employer, employment, exempt income, expenditure on account of an employee, interest, life insurance policy, payment, person, premium.

Fringe benefits

CX 7 When fringe benefits arise

A fringe benefit arises when—

- (a) a motor vehicle is made available to an employee for their private use (see sections CX 8 to CX 13):
- (b) an employer provides subsidised transport for an employee (see section CX 14):
- (c) an employer provides an employment-related loan to an employee, or a life insurer provides a loan to a policyholder (see sections CX 15 to CX 17):
- (d) an employer contributes to a superannuation scheme for the benefit of an employee (see section CX 18):
- (e) an employer makes a contribution for the benefit of an employee to a sick, accident, or death benefit fund (see section CX 19):
- (f) an employer pays a specified insurance premium or makes a contribution to the insurance fund of a friendly society for the benefit of an employee (see section CX 20):
- (g) a company or trustee of a group investment fund provides a benefit to an employee who holds shares in the company or is an investor in the fund (see section CX 22):
- (h) an employer provides an employee with a benefit of any other kind in connection with their employment (see section CX 23).

Origin: new.
Defined terms: company, contribution, employee, employer, employment, employment-related loan, friendly society, group investment fund, life insurer, loan, motor vehicle, policyholder, private use, share, sick, accident, or death benefit fund, specified insurance premium, superannuation scheme, trustee.

CX 8 Private use of motor vehicle

When fringe benefit arises

- (1) A fringe benefit arises if—
 - (a) a motor vehicle is made available to an employee for their private use; and
 - (b) the vehicle is owned, leased, or rented by the person who makes it available to the employee.

When subsection (1) does not apply

- (2) Subsection (1) does not apply when—
- (a) the nature of the employment requires the employee regularly to use a motor vehicle and to be absent from home in the performance of their duties (the period of absence being not less than 24 hours continuously); or
 - (b) the vehicle is used as a work-related vehicle; or
 - (c) the vehicle is used for an emergency call.

Whole day

- (3) For the purposes of subsection (2), the whole of the day on which a motor vehicle is used for a business trip or as a work-related vehicle or for an emergency call is treated as a day on which the vehicle is not available for private use.

Origin:	(1) CI 1(a), (b); CI 11(16). (2) OB 1 'private use or enjoyment'. (3) OB 1 'private use or enjoyment'.
Defined terms:	emergency call, employee, employment, motor vehicle, person, private use, work-related vehicle.

CX 9 Private use of motor vehicle: use of work-related vehicle

If an employer makes a work-related vehicle available to an employee for their private use, the employee's use of the vehicle must be limited to—

- (a) travel to and from their home that is necessary in, and a condition of, their employment; or
- (b) other travel in the course of their employment during which the travel arises incidentally to the business use.

Origin:	OB 1 'work related vehicle'.
Defined terms:	employee, employer, employment, motor vehicle, private use, work-related vehicle.

CX 10 Private use of motor vehicle: 'private use' defined

Meaning

- (1) In the fringe benefit tax rules, **private use**, for a motor vehicle,—
- (a) includes the employee's use of the vehicle for travel between home and work, and any other travel that confers a private benefit on that employee; and

- (b) does not include the use of the vehicle in the course of employment—
 - (i) for an emergency call; or
 - (ii) when the nature of the employment regularly requires the employee to use the vehicle and to be absent from home in the performance of their duties (the period of absence being not less than 24 hours continuously).

Emergency call or absence

- (2) For the purposes of subsection (1)(b), the day on which the emergency call is made or the absence continues is not counted as a day on which the vehicle is available for the employee's private use.

Origin:	(1) OB 1 'private use or enjoyment'. (2) OB 1 'private use or enjoyment'.
Defined terms:	emergency call, employee, employment, motor vehicle, private use.

CX 11 Private use of motor vehicle: 'emergency call' defined

Emergency call means a visit that an employee is required to make to which all the following paragraphs apply:

- (a) the employee makes the visit from their home in the course of their employment; and
- (b) the purpose of the visit is to provide—
 - (i) essential services relating to the operation of the plant or machinery of the employer, or of their client or customer; or
 - (ii) essential services relating to the maintenance of services provided by a local authority or public authority, or the carrying on of a business for the supply of energy or fuel to the public; or
 - (iii) emergency services relating to the health or safety of any person; and
- (c) the employer, their client or customer, or a member of the public requests the services; and
- (d) except when paragraph (b)(iii) applies, the services are required to be performed between the hours of 6 pm and 6 am on days other than a Saturday, Sunday or statutory public holiday, and at any time on other days.

Origin:	OB 1 'emergency call'.
Defined terms:	business, emergency call, employee, employer, employment, local authority, motor vehicle, person, private use, public authority.

CX 12 Private use of motor vehicle: ‘work-related vehicle’ defined

In the fringe benefit tax rules, **work-related vehicle** means a motor vehicle (other than a motorcar) that prominently and permanently displays the form of identification that the employer regularly uses in carrying on their undertaking or activity. If the vehicle is rented from any person, the identification may instead be in the form that that person regularly uses in their undertaking or activity.

Origin:	OB 1 ‘work related vehicle’.
Defined terms:	employer, fringe benefit tax rules, motor vehicle, motorcar, person, private use, work-related vehicle.

CX 13 Private use of motor vehicle: use by more than one employee

If, on any day, a motor vehicle is made available by an employer for the private use of more than one employee, this availability is treated as a single instance. The taxable value of the fringe benefit is reduced by the total amount of any contributions paid by an employee or employees.

Origin:	CI 2(4).
Defined terms:	amount, contribution, employee, employer, motor vehicle, private use.

CX 14 Subsidised transport in course of employer’s business

Subsidised transport provided by employer

- (1) A fringe benefit arises if an employer carries on a business that includes charging a sum for transporting members of the public by means other than a motor vehicle, and the employer subsidises the transport of an employee in the course of the business.

Transport provided by arrangement with third person

- (2) A fringe benefit arises whether the subsidised transport is provided to an employee by their employer or by a person with whom the employer has entered into an arrangement to provide the transport.

‘Subsidised transport’ defined

- (3) In this section and section ND 1G (Subsidised transport: value of benefit), **subsidised transport**—
 - (a) means transport for which the employer does not charge the employee or for which the employer charges the employee a sum that is less than the highest amount that the employer charges the public for the equivalent transport (in terms of class, extent, and occasion); and
 - (b) includes transport that the employer provides by way of providing carriage or an entitlement to carriage.

Origin:	(1) CI 1(d). (2) CI 1(d). (3) OB 1 'subsidised transport'.
Defined terms:	amount, arrangement, business, employee, employer, motor vehicle, person, subsidised transport.
Comment:	Draft section ND 1G (Subsidised transport: value of benefit) appears in the consequential amendments in volume 3.

CX 15 Employment-related loans

When fringe benefit arises

- (1) A fringe benefit arises if an employer provides a loan to an employee, or if a life insurer provides a loan to a policyholder when a life insurance policy has been offered or entered into in New Zealand (see section CX 17).

When subsection (1) does not apply

- (2) Subsection (1) does not apply to loans made—
- (a) under a share purchase scheme approved under section DC 4 (Loans to employees under share purchase schemes):
 - (b) as an employee share loan:
 - (c) by a superannuation fund to the extent to which the value of the loan constitutes income of the fund under section GD 6 (Valuation of loans provided by superannuation fund deemed to be income of fund).

Origin:	(1) CI 1(c); CI 2(8), (9). (2) CI 1(i), (ia), (j).
Defined terms:	employee, employee share loan, employer, employment-related loan, income, life insurance policy, life insurer, loan, offered or entered into in New Zealand, policyholder, share purchase scheme, superannuation fund.

CX 16 Employment-related loans: 'employee share loan' defined

Loan to employee to acquire shares in employing company

- (1) For the purposes of section CX 15, **employee share loan** means a loan made to an employee under the conditions described in subsection (3) for the sole purpose of enabling the employee to acquire, under a scheme of acquisition, shares, rights, or options in the company that is their employer or that is associated with their employer.

When subsection (1) does not apply

- (2) Subsection (1) does not apply—
- (a) to a qualifying company:
 - (b) when an employer and an employee are associated persons:
 - (c) to a loan to which section DC 4 (Loans to employees under share purchase schemes) applies.

Conditions for loan

- (3) The conditions applying to an employee share loan are that—
- (a) the employee must use the loan only for the purpose of the acquisition; and
 - (b) the employee must beneficially own the shares, rights, or options while the loan is owing; and
 - (c) the employee must immediately repay the loan in full if they cease to be the beneficial owner of any of the shares, rights, or options; and
 - (d) the company issuing the shares, rights, or options must maintain a dividend-paying policy during the term of the loan.

When loan is owing

- (4) The employer provides a fringe benefit in an income year in which the loan is owing. The circumstances in which a loan is owing include a case in which, under the arrangement for the loan, an amount is payable in the future, or would be payable in the future if a particular event happened, and the employee or an associated person is or would be liable to pay that amount.

Origin:	(1) OB 1 'employee share loan benefit'. (2) OB 1 'employee share loan benefit'. (3) OB 1 'employee share loan benefit'. (4) OB 1 'owing'.
Defined terms:	amount, arrangement, associated person, company, employee, employee share loan, employer, employment-related loan, income year, loan, qualifying company, share.

CX 17 Employment-related loans: loans by life insurers

Loan to policyholder

- (1) If a life insurer makes a loan to a person holding a life insurance policy (or to an associated person), and the loan is made because of the capacity or status of the person as a policyholder, the life insurer provides a benefit that is treated as an employment-related loan.

Interest charged on loan

- (2) If a life insurer makes a loan to a person holding a life insurance policy (or to an associated person), and the interest charged on the loan depends on the capacity or status of the person as a policyholder, the life insurer provides a benefit that is treated as an employment-related loan.

Life insurer as employer

- (3) For the purposes of subsections (1) and (2), the life insurer is treated as an employer and the person holding the policy as an employee.

'Life insurer' defined

- (4) In this section, **life insurer** means a person who is the insurer under the life insurance policy, or a person associated with them, or a person with whom they have entered into an arrangement related to the making of the loan.

Origin:	(1) CI 2(8), (9). (2) CI 2(8), (9). (3) CI 2(8), (9). (4) CI 2(8), (9).
Defined terms:	arrangement, associated person, employee, employer, employment-related loan, interest, life insurance policy, life insurer, loan, person, policyholder.

CX 18 Contributions to superannuation schemes

A fringe benefit arises if an employer contributes to a superannuation scheme for the benefit of an employee. But the contribution is not a fringe benefit if it is a specified superannuation contribution.

Origin:	CI 1(g), (k).
Defined terms:	contribution, employee, employer, specified superannuation contribution, superannuation scheme.

CX 19 Contributions to sick, accident, or death benefit funds

A fringe benefit arises if an employer makes a contribution for the benefit of an employee to a sick, accident, or death benefit fund that has been approved by the Commissioner for the purposes of section CW 34 (Sick, accident, or death benefit fund).

Origin:	CI 1(e).
Defined terms:	Commissioner, contribution, employee, employer, sick, accident, or death benefit fund.

CX 20 Contributions to insurance funds

A fringe benefit arises if an employer pays a specified insurance premium or makes a contribution to the insurance fund of a friendly society for the benefit of an employee. But this rule does not apply to a premium or contribution under an accident insurance contract under section 13 of the Accident Insurance Act 1998, or under a contract to which section 188 (1)(a) of that Act applies, to the extent to which it relates to cover and entitlements for work-related personal injury.

Origin:	CI 1(f), (ja).
Defined terms:	contribution, employee, employer, friendly society, specified insurance premium.

CX 21 ‘Specified insurance premium’ defined

In section CX 18, **specified insurance premium** means a premium paid on the following policies for the benefit of an employee, their spouse, or their child:

- (a) a policy of life insurance on the life of the employee, their spouse (or on their joint lives), or their child, having the following characteristics:
 - (i) for policies other than whole of life policies, the minimum term is 10 years (except for a policy on the life of an employee’s spouse) or, when the policy’s maturity date is not earlier than the date on which a life assured reaches 60 years of age, is 5 years; and
 - (ii) the only benefits payable or distributable earlier than 10 years from the start of the policy or its maturity date (whichever is earlier) are made as a result of the death of a life assured, or are additional benefits payable as a result of accident to, or disease or sickness of, a life assured; and
 - (iii) the policy provides on the death of a life assured for a payment or distribution of a benefit (not a return of premiums) that is substantially capital and not materially less than the total benefit payable under the policy otherwise than as a result of death, or is a deferred life assurance policy on the life of a child, or is a policy on the life of a person who owing to ill health or physical disability cannot effect a policy of insurance at ordinary rates:
- (b) a policy of pension insurance under which the benefits are payable solely—
 - (i) for a life assured under the policy by way of a pension starting on or after the date on which the life assured reaches 60 years of age, and continuing for the life of the employee, their spouse, or their child; or
 - (ii) as a result of the death of the life assured either by returning a portion of the premiums paid for the assurance to secure the payment of a pension dependent on the life of the employee, their spouse, or their child, or by paying some or all of a bonus declared on the policy attributed to that portion:
- (c) a policy of personal accident or sickness insurance under which the benefits are payable solely for personal accident (whether fatal or not) or disease or sickness suffered by the employee, their spouse, or their child.

Origin:	CI 3(8A); OB 1 'policy of life insurance', 'policy of pension insurance', 'policy of personal accident or sickness insurance'.
Defined terms:	employee, person, specified insurance premium.

CX 22 Benefits provided to employees who are shareholders or investors

Benefit provided in connection with employment

- (1) If a company or a trustee of a group investment fund provides a benefit to an employee who also holds shares in the company or who is an investor in the fund, the benefit is treated as having been provided in connection with the employment. The shares or investment may be held either in the employee's own right or beneficially.

Whether fringe benefit or dividend

- (2) A company or a trustee of a group investment fund that has provided a non-cash benefit to an employee who is a shareholder or who is an investor in the fund may choose to treat the benefit as either a fringe benefit or a dividend. If the company or trustee does not make an election, the benefit is treated as a fringe benefit. If the company or trustee chooses to treat the benefit as a dividend, the fringe benefit rules do not apply.

Non-executive director

- (3) Subsection (1) does not apply when a payment or distribution under section CD 10 (2) (Non-cash benefits of shareholder-employees or directors) is made to a non-executive director shareholder solely in their capacity as non-executive director.

Non-cash benefits

- (4) Subsection (2) applies to non-cash benefits that would,—
- (a) if section CX 5 did not exist, be unclassified fringe benefits under section CX 23 if provided to a person in their capacity as employee:
 - (b) if section CD 20 (Employee benefits) did not exist, be dividends under section CD 10 (Non-cash benefits of shareholder-employees or directors) if provided to a person in their capacity as shareholder.

Notice of election

- (5) The company or trustee must give notice to the Commissioner of the election referred to in subsection (2) within the time allowed for filing a fringe benefit tax return for the period in which the benefit was provided.

Origin:	(1) CI 2(2). (2) CI 2A(1), (2), (3).
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	(3) CI 2(3).
	(4) CI 2A(1).
	(5) CI 2A(4).
Defined terms:	Commissioner, company, dividend, employee, employment, fringe benefit tax, group investment fund, investor, notice, person, return, share, shareholder, trustee.

CX 23 Unclassified benefits

Apart from the benefits referred to in sections CX 7 to CX 22, a fringe benefit also arises if an employer provides an employee with any other kind of benefit in connection with their employment, unless it is a benefit excluded under this subpart.

Origin:	CI 1(h).
Defined terms:	employee, employer, employment.

Exclusions and limitations

CX 24 Benefits provided instead of allowances

A benefit that an employer provides to an employee in connection with their employment is not a fringe benefit to the extent to which it removes the need that would otherwise exist for an employer to pay an employee an allowance that—

- (a) if it had been paid, would have been exempt income under section CW 13 (Reimbursement of employees and expenditure for their benefit), and would have been paid for reasons other than to enable the employee to provide a benefit to another person:
- (b) reimburses the employee for transport costs that would have been incurred both in connection with their employment and for the benefit of the employer in travelling between home and work, and that are attributable to any one or more of the factors set out in section CW 14 (3)(a) to (f) (Allowance for additional transport costs).

Origin:	CI 1(o)(iv), (v).
Defined terms:	employee, employer, employment, exempt income, person.

CX 25 Benefits to enable performance of duties

The taxable value of a benefit that an employer provides to an employee by way of subsidised transport or in the form of expenditure that the employer incurs on accommodation or transport provided to an employee is zero if the expenditure—

- (a) is to enable travel by an employee in order for them to perform their duties; and
- (b) does not relate to the providing or taking of leave or a vacation; and
- (c) is not increased as a result of the benefit.

Origin:	CI 4(4).
Defined terms:	employee, employer, subsidised transport.

CX 26 Benefits to non-executive director shareholders

A payment or distribution to, or a transaction with, a non-executive director shareholder that is a benefit under section CD 10 (2) (Non-cash benefits of shareholder-employees or directors) is not a fringe benefit if it is made solely because of their capacity as a non-executive director.

Origin:	CI 1(na).
Defined terms:	distribution, shareholder.

CX 27 Benefits provided on the premises

Nature of exemption

- (1) A benefit (other than free, discounted, or subsidised travel, accommodation, or clothing) provided by an employer and received or used by an employee on the employer's premises is not a fringe benefit.

'Employer's premises' defined

- (2) In subsection (1), **employer's premises**—
 - (a) includes premises to which the employer has a right of possession, and applies to premises other than those of the employer when the employee is required to work on those premises (in which case the benefit must be provided at the time the employee is working on those premises); and
 - (b) does not include premises occupied by an employee for residential purposes.

Origin:	(1) CI 1(q). (2) CI 1(q).
Defined terms:	employee, employer, employer's premises, possession.

CX 28 Benefits provided by charitable organisations

A charitable organisation that provides a benefit to an employee does not provide a fringe benefit except to the extent to which—

- (a) the employee receives the benefit mainly in connection with their employment; and
- (b) the employment consists of the carrying on by the organisation of a business whose activity is outside its benevolent, charitable, cultural, or philanthropic purposes.

Origin:	CI 1(m).
Defined terms:	business, charitable organisation, employee, employment.

CX 29 Non-liable payments

A benefit received by an employee is not a fringe benefit to the extent to which it is received in a quarter or in an income year in which they derive a source deduction payment that is not liable for income tax.

Origin:	CI 1(n).
Defined terms:	derived, employee, income tax, income year, quarter, source deduction payment.

CX 30 Assistance with tax returns

An employer's assistance with the preparation of an employee's income statement or return of income is not a fringe benefit when the expenditure incurred in providing the assistance is expenditure for which the employee would have been allowed a deduction, if it had been incurred by the employee, under section DB 3 (Determining tax liabilities).

Origin:	CI 1(la).
Defined terms:	deduction, employee, employer, income statement, return of income.

CX 31 Accommodation

The value of board (or an allowance instead of accommodation) that an employer provides to an employee in connection with their employment or service is not a fringe benefit.

Origin:	CI 1(p).
Defined terms:	employee, employer, employment.

CX 32 Entertainment

A benefit in a form of entertainment described in section DD 2 (Limitation rule) that an employer provides to an employee is not a fringe benefit. But the exclusion does not apply if the benefit is not received or used in the course, or as a necessary consequence, of employment duties, and—

- (a) the employee may choose when to receive or use the benefit; or
- (b) the benefit is received or used outside New Zealand.

Origin:	CI 1(r).
Defined terms:	employee, employer, employment, New Zealand.

CX 33 Distinctive work clothing

Distinctive work clothing provided by employer

- (1) Distinctive work clothing that an employer provides to an employee is not a fringe benefit, whether provided by sale or otherwise.

'Distinctive work clothing' defined

- (2) In this section, **distinctive work clothing** means clothing (including a single item of clothing) that—
 - (a) is worn by an employee as a uniform that can be identified with the employer either—
 - (i) through the permanent and prominent display of a name, logo, or other identification that the employer regularly uses in carrying on their activity or undertaking; or
 - (ii) because the colour scheme, pattern, or style is readily associated with the employer; and
 - (b) is worn in the course, or as an incident, of employment; and
 - (c) is not clothing that employees would normally wear for private purposes.

Origin:	(1) CI 1(s). (2) OB 1 'distinctive work clothing'.
Defined terms:	distinctive work clothing, employee, employer, employment.

CX 34 Services provided to superannuation fund

A fringe benefit does not arise if services are provided to a superannuation fund, but only to the extent to which the fund would have been allowed a deduction for expenditure that it incurred in providing the services, if it had provided the services.

Origin:	CI 1(l).
Defined terms:	deduction, superannuation fund.

Insurance industry

CX 35 Life insurers and fully reinsured persons

Life insurers

- (1) The following amounts are excluded income of a life insurer:
 - (a) a premium derived by the life insurer under a life insurance policy; or
 - (b) a claim receivable by the life insurer under a life reinsurance policy.

Fully reinsured persons

- (2) Subsection (1) applies to a person who is carrying on a business of providing life insurance but who is treated as not carrying on a business of providing life insurance because they have full reinsurance.

Origin:	(1) CM 3. (2) CM 12(c), (d).
Defined terms:	amount, business, claim, derived, excluded income, full reinsurance, life insurance, life insurance policy, life insurer, life reinsurance policy, person, premium.

CX 36 Superannuation fund deriving amount from life insurance policy

When this section applies

- (1) This section applies when a superannuation fund invests funds in a life insurance policy offered or entered into in New Zealand.

Excluded income

- (2) An amount that the superannuation fund derives from the policy is excluded income.

Origin:	(1) CL 2. (2) CL 2.
Defined terms:	amount, derived, excluded income, life insurance policy, offered or entered into in New Zealand, superannuation fund.

CX 37 Resident insurance underwriters

When this section applies

- (1) This section applies when a natural person or an unincorporated body of natural persons—
- (a) is resident in New Zealand; and
 - (b) carries on a business of providing general insurance or guarantees against loss, damage, or risk; and
 - (c) as part of the business, is liable under an insurance contract, whether or not named in it, to pay, or to contribute towards the payment of, some or all of an amount claimable by the person insured under the contract.

Excluded income

- (2) Income that the natural person or persons derive from carrying on the business outside New Zealand is excluded income to the extent to which it is income of a kind other than those referred to in any of section OE 4 (1)(e), (f), (g), (h), (l), (m), or (n) (Classes of income deemed to be derived from New Zealand).

Origin:	(1) CN 5(2). (2) CN 5(1).
Defined terms:	amount, business, derived, excluded income, general insurance, income, insurance contract, New Zealand, payment, person, resident in New Zealand.
Comment:	Current section CN 5 applies to a person, 'but does not include a company or a mutual insurance association incorporated under the Mutual Insurance Act 1955'. The draft uses the language 'a natural person or an unincorporated body of natural persons', with the purpose of indicating that the provision is aimed at individuals. There is a question as to whether the draft wording accurately replicates the current wording.

Petroleum mining industry

CX 38 Farm-out arrangements for petroleum mining

Excluded income

- (1) Farm-in expenditure is excluded income of a petroleum miner who is a farm-out party in a farm-out arrangement.

Excess expenditure before 16 December 1991

- (2) Excess expenditure incurred in a farm-out arrangement entered before 16 December 1991 is excluded income of a transferor.

Definitions for subsection (2)

- (3) In subsection (2), **excess expenditure**, **farm-out arrangement**, and **transferor** have the same meanings as in (repealed) section 214D of the Income Tax Act 1976 as inserted by (repealed) section 15 of the Income Tax Amendment Act (No 2) 1992.

Origin:	(1) CJ 4(1). (2) CJ 4(2). (3) new.
Defined terms:	excess expenditure, excluded income, farm-in expenditure, farm-out arrangement, farm-out party, income, petroleum miner, transferor.

Mineral mining industry

CX 39 Disposal of mining shares

When subsection (2) applies

- (1) Subsection (2) applies when—
- (a) a company derives an amount from disposing of a mining share; and
 - (b) the amount is more than the cost of the share calculated under section DU 11 (2) (Disposal of mining shares by company); and
 - (c) the amount would, if this section did not exist, be income of the company under sections CB 1 to CB 4.

Excluded income

- (2) The amount is excluded income of the company to the extent to which it is, or is to be, used for mining purposes within the prescribed period.

When subsection (4) applies

- (3) Subsection (4) applies when—
- (a) a company (the seller) derives an amount from disposing of a mining share; and
 - (b) the disposal is to a mining company or to a mining holding company (the buyer); and
 - (c) the amount is more than the cost of the share calculated under section DU 11 (2) (Disposal of mining shares by company); and
 - (d) the amount would, if this section did not exist, be income of the seller under sections CB 1 to CB 4.

Excluded income

- (4) The amount is excluded income of the seller to the extent to which it consists of mining shares issued to it in the buyer.

Origin:	(1) DN 2(2). (2) DN 2(2). (3) DN 2(2). (4) DN 2(2).
Defined terms:	amount, company, derived, excluded income, income, mining company, mining holding company, mining purposes, mining share, prescribed period.

CX 40 Disposal of mining shares acquired with reinvestment profit

When subsection (2) applies

- (1) Subsection (2) applies when—
- (a) a company (the seller) derives an amount from disposing of a mining share; and
 - (b) the disposal is to a mining company or to a mining holding company (the buyer); and
 - (c) an amount of the reinvestment profit of the seller is used in calculating the deduction for the cost of the mining share under section DU 11 (2) (Disposal of mining shares by company); and
 - (d) the amount derived from the disposal would, if this section did not exist, be income of the seller under section CU 14 (Disposal of mining shares acquired with reinvestment profit).

Excluded income

- (2) The amount is excluded income of the seller to the extent to which it consists of mining shares issued to it in the buyer.

When subsection (4) applies

- (3) Subsection (4) applies when—
- (a) a company (the seller) derives an amount from disposing of a mining share; and
 - (b) an amount of the reinvestment profit of the seller is used in calculating the deduction for the cost of the mining share under section DU 11 (2) (Disposal of mining shares by company); and
 - (c) the amount derived from the disposal would, if this section did not exist, be income of the seller under section CU 14 (Disposal of mining shares acquired with reinvestment profit).

Excluded income

- (4) The amount is excluded income of the company to the extent to which it is, or is to be, used for mining purposes within the prescribed period.

When subsection (6) applies

- (5) Subsection (6) applies when—
- (a) a company (the seller) derives an amount from disposing of a mining share; and
 - (b) the disposal is of the kind described in section CU 17 (Mining company or mining holding company liquidated); and
 - (c) the amount derived from the disposal would, if this section did not exist, be income of the seller under section CU 14 (Disposal of mining shares acquired with reinvestment profit).

Excluded income

- (6) The amount is excluded income of the company to the extent to which it consists of mining shares.

Origin:	(1) DN 2(9). (2) DN 2(9)(a). (3) DN 2(9). (4) DN 2(9)(c). (5) DN 2(9). (6) DN 2(9)(b).
Defined terms:	amount, company, deduction, derived, excluded income, income, mining company, mining holding company, mining purposes, mining share, prescribed period, reinvestment profit.

CX 41 Repayment of loans made from reinvestment profit

When this section applies

- (1) This section applies when an amount would, if this section did not exist, be income of a company under section CU 16 (Repayment of loans made from reinvestment profit).

Excluded income

- (2) The amount is excluded income of the company to the extent to which it is, or is to be, used for mining purposes within the prescribed period.

Origin:	(1) DN 2(6). (2) DN 2(6).
Defined terms:	amount, company, excluded income, income, mining purposes, prescribed period.

Government grants

CX 42 Government grants to businesses

When this section applies

- (1) This section applies to a grant that a local authority or a public authority pays a person in relation to a business carried on by the person. The grant must be in the nature of a grant or subsidy, or be a grant-related suspensory loan, but not a payment in the nature of an advance or loan.

Excluded income

- (2) When this section applies, the grant is excluded income if it is made to a person in relation to—
- (a) expenditure that they incur and for which they are allowed a deduction; or
 - (b) expenditure that they incur in acquiring, constructing, installing, or extending an asset for which they have an amount of depreciation loss.

Reduced deduction or depreciation loss

- (3) For the treatment of grants for the purposes of deductions and depreciation losses, see section DF 1 (Government grants to businesses).

Origin:	(1) DC 1(1), (4). (2) DC 1(2), (3). (3) new.
Defined terms:	business, deduction, excluded income, income, local authority, person, public authority.
Comment:	A government subsidy or grant in respect of business expenditure which results in a reduction in the deduction otherwise allowed for the expenditure is treated as income in current section DC 1 (2), the provision which reduces the deduction. The direction that the payment is not income is now given in this separate section in Part C (Income). This is consistent with the core provisions.

Superannuation contributions

CX 43 Employer's superannuation contributions

An employer's superannuation contribution is excluded income of—

- (a) the employee for whose benefit the contribution is provided;
- (b) the trustees of the superannuation scheme to whom the contribution is made.

Origin:	CL 1; OB 1 'monetary remuneration'.
Defined terms:	employee, employer's superannuation contribution, excluded income, superannuation scheme, trustee.

Income equalisation schemes

CX 44 Income equalisation schemes

A refund under section EN 8 (Refund of excess deposit), section EN 43 (Refund of excess deposit), or section EN 70 (Refund of excess deposit) is excluded income.

Origin:	EI 1(4); EI 11(4); EI 17(2).
Defined terms:	excluded income.

Inflation-indexed instruments

CX 45 Credits for inflation-indexed instruments

When this section applies

- (1) This section applies when—
- (a) an amount payable to a lender for money lent is determined by a fixed relationship to one or more indices of general price inflation in New Zealand; and
 - (b) an amount on account of an increase in the amount payable is credited to the lender's account by the borrower; and
 - (c) the credit represents a recovery of a decrease, previously debited in account, in the amount payable over a previous period.

Credit excluded

- (2) The credit is excluded income of the lender.

Origin:	(1) EB 5(1). (2) EB 5(1).
Defined terms:	amount, excluded income, money lent, New Zealand, pay.

Income excluded under Parts F to I

CX 46 Income excluded under Parts F to I

An amount is excluded income if it is excluded under a provision in any of Parts F to I.

Origin:	BD 1(2)(b).
Defined terms:	amount, excluded income.

CY – Income under Parts F to I

CY 1 Amounts that are income under Parts to be rewritten

An amount is income of a person if it is their income under a provision in any of Parts F to I.

Origin:	BD 1(1).
Defined terms:	amount, income, person.
Comment:	This section can be progressively narrowed as Parts are rewritten.

CZ – Terminating provisions

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CZ 1 Recovery of deductions for software acquired before 1 April 1993

What this section applies to

- (1) This section applies to any of the following items for the acquisition of which a person was allowed a deduction before 1 April 1993:
- (a) the copyright in software:
 - (b) the right to use the copyright in software:
 - (c) the right to use software.

Application of depreciation provisions to income

- (2) An amount derived from the disposal of the item is income. Section EZ 15 (Adjusted tax value for software acquired before 1 April 1993) deals with the adjusted tax value of the item. Sections EF 38 to EF 45 apply as if the item were depreciable property under section EF 38 (Items for purposes of section EF 36).

Origin:	(1) EG 19(1)(a)(ii). (2) EG 19(1)(a)(ii).
Defined terms:	adjusted tax value, amount, deduction, depreciable property, derived, income, person.
Comment:	See the comment on draft section EF 38 (Items for purposes of section EF 36).

CZ 2 General insurance with risk period straddling 1 July 1993

When this section applies

- (1) This section applies when—
- (a) a company carries on a business of providing general insurance or guarantees against loss, damage, or risk, immediately before and on 1 July 1993; and
 - (b) the company holds a reinsurance contract that covers a period of risk starting before 1 July 1993 and ending after 1 July 1993; and
 - (c) the company pays the premiums under the contract outside New Zealand.

Income

- (2) An amount derived by the company from a claim under the reinsurance contract is income of the company if the event giving rise to the claim occurs on or after 1 July 1993.

Allocation

- (3) The income is allocated to the income year in which the event giving rise to the claim occurs.

Origin:	(1) CZ 6(d)(i), (ii), (iii). (2) CZ 6(d)(vi). (3) CZ 6(d)(vii).
Defined terms:	amount, business, company, derived, general insurance, income, income year, New Zealand, pay, reinsurance contract.

CZ 3 Exempt interest: overseas money lent to government or local or public authority before 29 July 1983

Exempt interest under former section 61 (18)

- (1) Amounts that a person who is a non-resident derives are exempt income if they are derived from—
- (a) stock or debentures issued before 29 July 1983 by the government of New Zealand or by a local authority or public authority, the interest on which is payable out of New Zealand; or
 - (b) loans entered into before 29 July 1983 the interest on which was to be exempt from income tax in New Zealand under an agreement or arrangement made with the government of New Zealand.

Application posted or received before 29 July 1983

- (2) For the purposes of subsection (1)(b), a loan entered into on or after 29 July 1983 is treated as having been entered into before that date if an exemption of a kind referred to in that provision was authorised as a result of an application received by or posted to the government of New Zealand before 29 July 1983.

Origin:	(1) CB 2 (5), CZ 2; original s 61(18) of 1976 Act before amended by 1983, No 4, ss 2, 4, relevant to current CB 2 (1)(b). (2) CB 2 (5), CZ 2; original s 61(18) of 1976 Act before amended by 1983, No 4, ss 2, 4, relevant to current CB 2 (1)(b).
Defined terms:	amount, arrangement, debentures, derived, exempt income, income tax, interest, local authority, money lent, New Zealand, non-resident, pay, person, public authority.

CZ 4 Income from certain money lent or redemption payments

Section CC 7 (Commercial bills), section CW 8 (Money lent to government of New Zealand), and section OE 4 (1)(m) and (n) (Classes of income deemed to be derived from New Zealand) apply to—

- (a) interest derived from money lent under a binding contract entered into on or after 29 July 1983:
- (b) a redemption payment made on a commercial bill to which both the following apply:
- (i) it was issued on or after 29 July 1983 ('issue', in this paragraph, having the meaning given to it by section 2 of the Bills of Exchange Act 1908); and
- (ii) it was not issued under a binding contract entered into before that date ('issue', in this paragraph, having the meaning given to it by section 2 of the Bills of Exchange Act 1908).

Origin:	CZ 2.
Defined terms:	commercial bill, derived, interest, money lent, redemption payment.

CZ 5 Mineral mining: company making loan before 1 April 1979

If sections CG 13 to CG 15 would have applied to a loan by a company to another company made on or before 31 March 1979 if the Income Tax Amendment Act 1979 had not been enacted, the sections apply, as far as applicable, to such a loan as if the Act (except section 45) had not been enacted.

Origin:	DN 3(11).
Defined terms:	company.

CZ 6 Mining company's 1970-71 income year

When this section applies

- (1) This section applies when—
- (a) section 152 or section 153 of the Land and Income Tax Act 1954 (as in force before the commencement of section 153F of the Act) applied to a mining company for the 1970-71 income year; and
 - (b) the company acquires an asset by incurring the exploration expenditure or development expenditure referred to in section 27 (3)(a) of the Land and Income Tax Amendment Act 1971.

Application of subpart CU

- (2) The provisions of subpart CU (Income from mineral mining) apply, with any necessary modifications, as follows:
- (a) section CU 3 (Disposal of assets) applies to the company as if every reference in the section to an asset included a reference to an asset of the kind described in subsection (1)(b) that the company disposes of in the 1971-72 income year or a later income year:
 - (b) section CU 3 (Disposal of assets) applies to a person who acquires an asset of the kind described in subsection (1)(b) from the company as if every reference in the section to an asset included a reference to such an asset that the person acquires in the 1971-72 income year or a later income year:
 - (c) section CU 10 (Mining asset used to derive income other than income from mining) applies to the company as if every reference in the section to an asset included a reference to an asset of the kind described in subsection (1)(b) that the company uses, wholly or mainly, to derive income other than income from mining in the 1971-72 income year or a later income year.

Resident and non-resident mining operators

- (3) This section applies, with any necessary modifications, to an asset of the kind referred to in paragraph (i) of item 'a' of the formula in section 31 (3) of the Land and Income Tax Amendment Act (No 2) 1972 that a resident mining operator acquires or that a non-resident mining operator acquires.

Origin:	(1) DN 1(15)(b)(i), (ii). (2) DN 1(15)(b)(iii), (iv), (v). (3) DN 4(6); DN 5(2)(b).
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Defined terms: derived, income, income from mining, income year, mining company, non-resident mining operator, person, resident mining operator.

CZ 7 Treatment of superannuation fund interests in group investment funds on 1 April 1999

When this section applies

- (1) This section applies when a superannuation fund has an interest in a group investment fund on 1 April 1999.

Exclusions from dividends

- (2) Section CD 12 (4) (Returns of capital: off-market share cancellations) does not apply to the interest.

Trustee's election

- (3) If a trustee of a group investment fund chose on or before 31 March 1999 to treat a superannuation fund interest in a group investment fund as subject to section CD 12 (4) (Returns of capital: off-market share cancellations),—
- (a) subsection (2) does not apply to the interest:
- (b) section CD 12 (2) applies to the interest on and after 1 April 1999.

Origin: (1) CZ 4A(1); CZ 4B(1).
(2) CZ 4A(2).
(3) CZ 4B(1), (2).

Defined terms: dividend, group investment fund, superannuation fund, trustee.

CZ 8 Treatment of units and interests in unit trusts and group investment funds on issue as at 1 April 1996

Units and interests in unit trusts and group investment funds

- (1) All units in a unit trust and interests in a group investment fund on issue on 1 April 1996 will, on and from that date, be treated as not having been issued on terms that their redemption will be subject to the slice rule.

Election made for units or interests

- (2) All units or interests to which subsection (1) applies and for which an election has been made relying upon paragraph (c) of the definition of the term **shares of the same class** in section OB 1 (Definitions), will be treated on and from 1 April 1996 as if that election made in reliance upon paragraph (c) had never been made.

When subsections (1) and (2) do not apply

- (3) Subsections (1) and (2) will not apply to a unit or interest if the manager or trustee of the unit trust or group investment fund so chooses, by giving notice to the Commissioner before 1 April 1996, in

which case the relevant unit or interest will, on and from 1 April 1996, be treated as having been issued on terms that its redemption will be subject to the slice rule.

Origin:	(1) CZ 4(3). (2) CZ 4(4). (3) CZ 4(5).
Defined terms:	group investment fund, notice, shares of the same class, slice rule, trustee, unit trust.

CZ 9 Repayment of loans: exchange variations

When this section applies

- (1) This section applies when a person carrying on business in New Zealand receives a loan in 2 or more instalments for the purposes of that business, or when a person in the course of carrying on a business in New Zealand makes such a loan. In this section, each instalment is treated as a separate loan, and repayments applied so that the separate loans are repaid in the order in which they were received, unless the terms of the loan expressly provide otherwise.

Exchange variation

- (2) If an exchange variation arises in relation to the repayment of the loan, in whole or in part, and the person derives an amount or incurs a loss through the exchange variation, the amount is income of the person and the loss is a deduction they are allowed.

Old financial arrangements rules

- (3) This section does not apply to a financial arrangement to which the old financial arrangements rules apply.

Definitions for this section

- (4) In this section,—

exchange variation, for the repayment of some or all of the loan, excluding interest, means a variation by virtue of a fluctuation in the value of the currency of currencies of 1 or more countries other than New Zealand in relation to New Zealand currency, that occurs between—

- (a) the amount of the repayment expressed in New Zealand currency at the time at which the repayment was made; and
(b) the amount expressed in New Zealand currency that would have been required to make that repayment on or at the later of 8 August 1975 and the time at which the loan was first made

loan means—

- (a) in relation to money lent, to a person, on or after 1 January 1974 and on or before 22 January 1985, money that—
 - (i) was lent with the consent of the Minister under the Capital Issues (Overseas) Regulations 1965 or the Overseas Investment Regulations 1974 or with the consent of the Reserve Bank under the Exchange Control Regulations 1978, as applicable; and
 - (ii) was lent in a currency other than a New Zealand currency; and
 - (iii) was expressed to be repayable in a currency other than New Zealand currency:
- (b) in relation to money lent, by a person, on or after 1 January 1974 and on or before 22 January 1985, money that—
 - (i) was lent with the consent of the Reserve Bank under the Exchange Control Regulations 1978 if required; and
 - (ii) was expressed to be repayable in a currency other than New Zealand currency:
- (c) in relation to money lent, to a person, on or after 23 January 1985, money that—
 - (i) is lent in a currency other than New Zealand currency; and
 - (ii) is expressed to be repayable in a currency other than New Zealand currency:
- (d) in relation to money lent, by a person, on or after 23 January 1985, money that is expressed to be repayable in a currency other than New Zealand currency.

Origin:	(1) CZ 1(1). (2) CZ 1(2). (3) CZ 1(4). (4) CZ 1(5).
Defined terms:	amount, business, deduction, derived, exchange variation, financial arrangement, incurred, loan, money lent, New Zealand, old financial arrangements rules, person.

CZ 10 Transitional relief for calculation of attributed repatriation dividends

Loans made by CFC to intermediary before 2 July 1992

- (1) Subsection (2) applies for the purposes of calculating attributed repatriation from a CFC to the extent to which—
 - (a) the CFC made a loan before 8pm New Zealand standard time, 2 July 1992; and

- (b) the loan enabled another person (the intermediary) to make a loan to a New Zealand resident associated with the CFC; and
- (c) the loan is not a loan which is an arrangement subject to section CG 8 (Arrangement to defeat application of CFC attributed repatriation provisions); and
- (d) the New Zealand-resident associated person repays the intermediary and the intermediary repays the CFC; and
- (e) the CFC uses the proceeds to make a loan directly to the New Zealand-resident associated person.

Loan to associate treated as existing for whole accounting period

- (2) The loan to the New Zealand-resident associated person is treated as if it were in existence at the start of the accounting period of the CFC in which it is in fact made.

Property acquired under contract binding before 2 July 1992

- (3) Subsection (4) applies for the purposes of calculating attributed repatriation from a CFC if the CFC—
 - (a) acquires any property (including an amount accruing on a financial arrangement) under a binding contract entered into before 8pm New Zealand standard time, 2 July 1992; and
 - (b) the acquisition is not as a result of any voluntary action taken by the CFC after that time.

Acquired property treated as existing for whole accounting period

- (4) The property is treated as if it were held by the CFC at the start of the accounting period of the CFC in which it is in fact acquired.

Origin:	(1) CG 8(9). (2) CG 8(9). (3) CG 8(12). (4) CG 8(12).
Defined terms:	accounting period, arrangement, associated, attributed repatriation, CFC, financial arrangement, New Zealand, New Zealand resident, person.