EJ – Spreading of specific income

Index

Farming and forestry

EJ 1 Spreading backward of income from timber

When this section applies

(1) This section applies when a person derives income under section CB 22 (Disposal of timber or right to take timber) or section CB 23 (Disposal of land with standing timber).

Allocation of income

(2) The person may allocate the income, in the proportions they choose, to the income year in which it is derived together with any one or more of the previous 3 income years.

Origin:	(1) EJ 1(1).
	(2) EJ 1(1).
Defined terms:	derived, income, income year, person, timber.

Land

EJ 2 Payment to lessor for non-compliance with covenant for repair

Spreading of income

(1) A lessor of land may choose to allocate some or all of a payment for non-compliance with a covenant for repair to any one or more of the 4 income years that follow the income year in which they received the

payment. But they may make an allocation only to income years in which they own the land to which the payment for non-compliance relates.

Unallocated payments

(2) The whole or any part of a payment for non-compliance with a covenant for repair that is not allocated to the income year in which the payment is received, or to any of the 3 income years following that year, is allocated to the fourth income year following the year in which the payment was received.

Making the election

(3) The lessor must make the election by giving notice to the Commissioner, specifying the manner of the allocation. The lessor must give the notice to the Commissioner within the time required to file a return of income for the income year to which the payment is allocated, or otherwise if the Commissioner agrees. The notice is irrevocable.

Ownership of land

(4) In this section, a lessor is treated as owning land if they have an estate or interest in the land. The estate or interest may be legal or equitable, but an interest as a mortgagee is not included.

Relationship with subpart CC (Income from holding property (excluding equity))

(5) This section overrides section CC 2 (2) (Payments for non-compliance with covenant for repair).

Origin:	(1) EN 1(2) proviso. (2) EN 1(4). (3) EN 1(2) proviso, (3). (4) EN 1(8). (5) EN 1(2) proviso.
Defined terms:	Commissioner, estate, income, income year, interest, lessor, notice, owner, return of income.
Comment:	Currently, an amount received for non-performance of an obligation to maintain or repair land under a lease is primarily allocated to the income year of receipt by current section EN 1 (2), but a proviso allows the recipient to spread the income over the subsequent 4 income years. Current section EN 1 also performs the initial function of identifying such amounts as income. Amounts received for non-performance with maintenance and repair covenants are now identified as income in a separate section in draft Part C (draft section CC 2 (Payments for non-compliance with covenant for repair)). This is consistent with the core provisions. The timing rule which allows recipients to spread the income over subsequent income years is now expressed in this separate section in draft Part E (Timing and quantifying rules).

EJ 3 Payment for non-compliance: when lessor ceases to own land

When this section applies

(1) This section applies when a lessor—

(a) receives a payment for non-compliance with a covenant for repair; and

(b) allocates that payment, or part of it, to more than 1 income year; and

(c) ceases to own the land to which the payment relates before the end of the third income year following the income year in which they received the payment.

Balance of payment allocated to year of cessation

(2) The amount of a payment for non-compliance that has not been allocated under section EJ 2 is allocated to the income year in which the lessor ceases to own the land.

If ownership of part of land ceases

(3) If a lessor ceases to own part of the land to which a payment for non-compliance relates, this section and section EJ 2 apply to the part of the land that the lessor continues to own.

Ownership of land

(4) In this section, a lessor is treated as owning land if they have an estate or interest in the land. The estate or interest may be legal or equitable, but an interest as a mortgagee is not included.

Origin:	(1) EN 1(5).
	(2) EN 1(5).
	(3) EN 1(7).
	(4) EN 1(8).
Defined terms:	amount, estate, interest, income year, lessor, owner.

EJ 4 Disposal of land to Crown

When this section applies

(1) This section applies when a person derives income from the disposal of any of their land to the Crown.

Allocation of income

(2) The income may be allocated between the income year in which the person derives it and a number of later years (but not more than 3) if the person—

(a) applies in writing (or an application is made on their behalf) within 12 months after the end of the income year in which the person derives the income, or otherwise if the Commissioner agrees; and

(b) arranges to pay all income tax liabilities relating to that income.

Proportionate allocation of deduction

(3) If income is allocated to 2 or more income years under subsection (2), a proportion of any deduction allowed for the cost of the land must be allocated to the same income years. The amount allocated must bear the same proportion to the total deduction as the allocated income bears to the total amount of income.

Cancellation of allocation

(4) The Commissioner may cancel an allocation under subsection (2) at any time.

Effect of cancellation of allocation

(5) If the Commissioner cancels an allocation,—

(a) the whole of the income or deduction, as applicable, is allocated to the income year before the year in which the allocation is cancelled; and

(b) the cancellation of the allocation does not affect income or a deduction that has been allocated to a previous income year.

Origin:	(1) EN 4(1). (2) EN 4(1). (3) EN 4(2). (4) EN 4(3). (5) EN 4(3).
Defined terms:	amount, Commissioner, deduction, derived, income, income tax liability, income year, person.

EJ 5 Leases: income derived in anticipation

Income allocated to future years

(1) When, in an income year, a person derives income in anticipation from fines, premiums, a payment of goodwill on the grant of a lease, or in another similar way, the Commissioner may, on the person's request in the next income year, allocate the income to the income year in which it is derived and to following income years (but not more than 5).

Cancellation of allocation

(2) The Commissioner may cancel an allocation under subsection (1) at any time. When an allocation is cancelled, the income allocated to the income year in which the cancellation occurs and to future income years is allocated to the income year before that in which the allocation was cancelled.

Origin:	(1) EB 2(1). (2) EB 2(2).
Defined terms:	Commissioner, derived, income, income year, lease, person.

Intellectual property

EJ 6 Assigning or granting copyright

When this section applies

(1) This section applies to a person who is the author of a literary, dramatic, musical, or artistic work that they made over a period of more than 12 months, and who receives consideration from—

(a) assigning the copyright in that work in whole or in part:

(b) granting an interest in that copyright by licence:

(c) publishing their own work.

Allocation of lump sum payments

(2) If some or all of the consideration that the person receives is a lump sum payment that would be income in 1 income year, the amount of the payment may be allocated equally between the income year in which the payment is received and—

(a) the income year before that income year (if the person made the work over a period that is not more than 24 months); or

(b) two income years before that income year (if the person made the work over a period that is more than 24 months).

Allocation under subsection (2)

(3) For an allocation under subsection (2), the person must apply in writing to the Commissioner no later than 6 years after the end of the income year in which they received the payment.

Allocation of other payments

(4) If some or all of the consideration that the person receives under subsection (1) is not a lump sum payment to which subsection (2) applies, and the whole amount would be income in 1 income year, the amount may be allocated equally between the income year in which the payment is received and the income year before that income year if the person received the payment within 2 years after the first publication of the work.

Allocation under subsection (4)

(5) For an allocation under subsection (4), the person must apply in writing to the Commissioner no later than 8 years after the first publication of the work.

Definitions for this section

(6) In this section,—

author includes a joint author

first publication means the first occasion on which the work or a reproduction of it is published, performed, or exhibited

lump sum payment includes an advance on account of royalties.

Origin:	(1) EN 3(1), (5). (2) EN 3(2). (3) EN 3(2). (4) EN 3(3). (5) EN 3(3). (6) EN 3(6).
Defined terms:	amount, author, Commissioner, first publication, income, income year, lump sum payment, person.

EK – Spreading of specific expenditure

Index

Farming and forestry

EK 1 Spreading backward of deductions for costs of timber

When this section applies

(1) This section applies when a person derives income under section CB 22 (Disposal of timber or right to take timber) or section CB 23 (Disposal of land with standing timber).

Allocation of deduction for cost of timber

(2) The person must allocate every amount allowed as a deduction for a cost of timber to the income years to which the income is allocated under section EJ 1 (Spreading backward of income from timber), and in the same proportions as it is allocated.

Origin:	(1) EJ 1(1). (2) EJ 1(2).
Defined terms:	amount, cost of timber, deduction, derived, income, income year, person.

EK 2 Spreading forward of deductions for repairs to fishing boats

When this section applies: generally

(1) This section applies when a person who carries on a fishing business in New Zealand is allowed a deduction for expenditure incurred in making repairs or alterations required by Part X of the Maritime Transport Act 1994 to the equipment, hull, or machinery of a fishing boat used wholly for the purposes of the business.

When subsection (3) applies

(2) Subsection (3) applies when the person does not cease to carry on the business before the end of the fourth income year following the income year in which the expenditure is incurred.

Business not ceasing within 4 years

(3) The person may do one of the following to the total amount of expenditure allowed as a deduction:

(a) deduct it in the income year in which the expenditure is incurred; or

(b) allocate it to any one of the 4 income years following the income year in which the expenditure is incurred, and deduct it in that income year; or

(c) allocate parts of it over some or all of the 4 income years following the income year in which the expenditure is incurred, and deduct each part allocated in the income year to which it is allocated; or

(d) deduct it, or any part of it that has not already been deducted, in the fourth income year following the income year in which the expenditure is incurred.

When subsection (5) applies

(4) Subsection (5) applies when the person ceases to carry on the business before the end of the fourth income year following the income year in which the expenditure is incurred.

Business ceasing within 4 years

(5) The person may do one of the following in relation to the total amount of expenditure allowed as a deduction:

(a) deduct it, or any part of it that has not already been deducted, in the income year in which the person ceases to carry on the business; or

(b) allocate it, or any part of it that has not already been deducted, equally to the income year in which it is incurred and the following income years in which the person continues to carry on the business.

Definitions for this section

(6) In this section,—

fishing boat—

(a) means a boat registered as a fishing boat under Part IV of the Fisheries Act 1983; and

(b) includes a small boat belonging to any boat that is so registered

fishing business means a business of catching or taking fish, including crustaceans and shellfish, for the purposes of sale.

Origin:	(1) DO 2(1). (2) DO 2(1). (3) DO 2(1). (4) DO 2(1). (5) DO 2(1). (6) DO 2(2).
Defined terms:	amount, business, deduction, fishing boat, fishing business, income year, New Zealand, person.

EK 3 Spreading forward of fertiliser expenditure

When this section applies

(1) This section applies when—

(a) a person carries on an agricultural business or a farming business on land in New Zealand; and

(b) the person incurs expenditure in buying fertiliser or lime or applying fertiliser or lime to some or all of the land; and

(c) the expenditure is expenditure for which the person is allowed a deduction; and

(d) the person gives notice to the Commissioner that the person has allocated the expenditure under subsection (2).

Allocation

(2) The person allocates expenditure by allocating it, in the proportions they choose, to any one or more of the 4 income years following the income year in which the expenditure is incurred.

When deduction allowed

(3) Allocated expenditure—

(a) is not allowed as a deduction in the income year in which the expenditure is incurred; and

(b) is allowed as a deduction in the income year to which it is allocated.

Unclaimed or unallocated expenditure

(4) Any part of the expenditure that the person does not claim as a deduction for the income year in which the expenditure is incurred, or does not allocate under subsection (2), is allowed as a deduction in the fourth income year following the income year in which the expenditure is incurred.

No revocation of allocation

(5) The person must not revoke an allocation under subsection (2).

Business ceasing within 4 years

(6) If the person ceases to carry on the business before the end of the fourth income year following the income year in which the expenditure was incurred, they must choose one of the following ways to deal with any part of the expenditure that has not so far been deducted, and must give the Commissioner notice of the way chosen:

(a) the part is to be deducted in the income year in which the person ceases to carry on the business; or

(b) the part is to be allocated equally to the income year in which the expenditure was incurred and the following income years in which the person carries on the business.

Notice

(7) A notice under this section must be given to the Commissioner within,—

(a) for subsection (1)(d), the time within which the person is required to file a return of the person’s income for the year to which the expenditure is allocated:

(b) for subsection (6), the time within which the person is required to file a return of the person’s income for the year in which the person ceases to carry on the business:

(c) for either subsection (1)(d) or subsection (6), a longer time allowed by the Commissioner in any case or class of cases.

Personal representative

(8) An election under subsection (6) may be made by a deceased's personal representative.

Origin:	(1) EK 1(1). (2) EK 1(1). (3) EK 1(1). (4) EK 1(2) proviso. (5) EK 1(1). (6) EK 1(3). (7) EK 1(2). (8) EK 1(3).
Defined terms:	business, Commissioner, deduction, income, income year, New Zealand, notice, person, return of income.

Films

EK 4 Expenditure incurred in acquiring rights in feature films

Rights in feature films

(1) A deduction under section DS 2 (Acquiring rights in films) for expenditure that a person incurs in acquiring a right in a film is allocated in accordance with this section, if the film is a feature film.

Allocation of amount

(2) If the person still has the right in the film at the end of an income year, the deduction that is allocated to the income year is an amount that is the lesser of—

(a) the greater of—

(i) an apportioned amount of the deduction as calculated under subsection (3) for the income year; and

(ii) the amount of film income derived in the income year; and

(b) the remaining deduction (if any).

Calculation of apportioned amount

(3) The apportioned amount is calculated for an income year using the formula—

$$\frac{\text{completed months}}{\text{non-completed months}} \quad x \quad \text{deduction.}$$

Definition of items in formula

(4) In the formula,—

(a) **completed months** is the number of calendar months in the income year (including a part of a month) for which the film is completed:

(b) **non-completed months** is 24 minus the number of complete calendar months (if any) in the income year for which the film is not completed:

(c) **deduction** is the remaining deduction (if any).

Allocation on disposal of film right

(5) If the person disposes of the right in the film during an income year, and does not have a right in the film at the end of the income year, the remaining deduction (if any) is allocated to the income year.

'Remaining deduction' defined

(6) In this section, **remaining deduction** means, for an income year, the amount of the deduction for expenditure incurred before the end of that income year that has not been allocated to a previous income year.

Origin:	(1) EO 3(4). (2) EO 3(4). (3) EO 3(9); OB 1 'specified deduction'. (4) EO 3(9); OB 1 'specified deduction'. (5) EO 3(6). (6) EO 3(9); OB 1 'residual value'.
Defined terms:	amount, completed, deduction, derived, feature film, film, film income, film right, income year, person, remaining deduction, right in a film.

EK 5 Expenditure incurred in acquiring rights in films other than feature films

Rights in films other than feature films

(1) A deduction under section DS 2 (Acquiring rights in films) for expenditure that a person incurs in acquiring a right in a film is allocated in accordance with this section, if the film is not a feature film.

Allocation of amount

(2) If the person still has the right in the film at the end of an income year, the deduction that is allocated—

(a) to the income year in which the film right is acquired or the film is completed (whichever is later) is an amount that is—

(i) 50% of the deduction; or

(ii) if the film income derived in the income year is more than 50% of the deduction, the lesser of that amount of film income and the total amount of the deduction; and

(b) to the next income year, is the remaining deduction (if any).

Allocation on disposal of film right

(3) If the person disposes of the right in the film during an income year, and does not have a right in the film at the end of the income year, the remaining deduction (if any) is allocated to the income year.

'Remaining deduction' defined

(4) In this section, **remaining deduction** means, for an income year, the amount of the deduction that has not been allocated to a previous income year.

Origin:	(1) EO 3(5). (2) EO 3(5). (3) EO 3(6). (4) EO 3(5).
Defined terms:	amount, completed, deduction, derived, feature film, film, film income, film right, income year, person, remaining deduction, right in a film.

EK 6 Film production expenditure for New Zealand films

New Zealand films

(1) A deduction under section DS 3 (Film production expenditure) for film production expenditure is allocated under this section, if the film has a final certificate that it is a New Zealand film under section EK 7**.**

Allocation of expenditure up to completion of film

(2) A deduction for film production expenditure that is incurred in or before the income year in which the film is completed is allocated to the income year in which the film is completed.

Allocation of expenditure after completion of film

(3) A deduction for film production expenditure that is incurred after the film is completed is allocated to the income year in which it is incurred.

Origin:	(1) EO 4(4). (2) EO 4(4). (3) EO 4(6).
Defined terms:	completed, deduction, film, film production expenditure, income year, New Zealand.

EK 7 Certification of New Zealand films

Certification of New Zealand films

(1) The New Zealand Film Commission may certify that a film is a New Zealand film, if the Commission is satisfied that the film has, or will on completion have, a significant New Zealand content in accordance with the criteria set out in section 18 of the New Zealand Film Commission Act 1978.

Final and provisional certificates

(2) The certificate issued by the New Zealand Film Commission under subsection (1) must be—

(a) a final certificate, if the film is completed; and

(b) a provisional certificate, if the film is not completed.

Applications for certification of New Zealand films

(3) An application to the New Zealand Film Commission for a certificate that a film is a New Zealand film must be in writing and must provide the information that the Commission requires.

Notice of certificate to Commissioner

(4) The New Zealand Film Commission must send a copy of the final certificate or provisional certificate to the Commissioner immediately after issuing it.

Revocation of certificate

(5) The New Zealand Film Commission may revoke a final certificate or a provisional certificate if for any reason the Commission is satisfied that the certificate should not remain in force.

Effect of revocation

(6) A revoked certificate is void from the time the certificate was issued.

Notice of revocation to Commissioner

(7) The New Zealand Film Commission must give notice to the Commissioner immediately after revoking a final certificate or a provisional certificate.

Origin:	(1) EO 4(9), (13).
	(2) EO 4(9).
	(3) EO 4(9).
	(4) EO 4(11).
	(5) EO 4(10).
	(6) EO 4(10).
	(7) EO 4(11).
Defined terms:	Commissioner, completed, film, New Zealand, notice.

EK 8 Film production expenditure for films other than New Zealand films

Films other than New Zealand films

(1) A deduction under section DS 3 (Film production expenditure) is allocated under this section, if the film does not have a final certificate that it is a New Zealand film under section EK 7.

Allocation of expenditure up to completion of film

(2) If the person still has the right in the film at the end of the income year in which the film is completed, the deduction for film production expenditure that is incurred in or before the income year is allocated as follows:

- (a) to the income year in which the film is completed, an amount that is—
  - (i) 50% of the deduction; or
  - (ii) if the film income derived in the income year is more than 50% of that deduction, the lesser of that amount of film income and the total amount of that deduction; and
- (b) to the next income year, the amount of the remaining deduction (if any).

Allocation of expenditure after completion of film

(3) If the person still has the right in the film at the end of an income year after the film is completed, a deduction for film production expenditure that is incurred in the income year is allocated to that income year.

Allocation on disposal of film right

(4) If the person disposes of the right in the film during an income year, and does not have a right in that film at the end of the income year, the remaining deduction (if any) is allocated to that income year.

'Remaining deduction' defined

(5) In this section, **remaining deduction** means, for an income year, the amount of the deduction for film production expenditure that has not been allocated to a previous income year.

Origin:	(1) EO 4(5). (2) EO 4(5). (3) EO 4(6). (4) EO 4(7). (5) EO 4(5).
Defined terms:	amount, completed, deduction, derived, film, film income, film production expenditure, film right, income year, New Zealand, person, remaining deduction, right in a film.

Petroleum mining

EK 9 Petroleum development expenditure

Deduction over 7 years

(1) A deduction under section DT 7 (Petroleum development expenditure) must be deducted in equal amounts over a period of 7 years.

Start of period for offshore development

(2) For petroleum development expenditure in an offshore development, the 7-year period starts with the income year in which the expenditure is incurred.

Start of period for onshore development

(3) For petroleum development expenditure in an onshore development, the 7-year period starts with the later of—

(a) the income year in which commercial production starts; and

(b) the income year in which the expenditure is incurred.

Origin:	(1) DM 1(2)(b). (2) DM 1(2)(b). (3) DM 1(2)(b).
Defined terms:	amount, commercial production, deduction, income year, offshore development, onshore development, petroleum development expenditure.

EK 10 Relinquishing petroleum permit

Deduction when permit relinquished

(1) A petroleum miner who relinquishes a petroleum permit is allowed a deduction for expenditure that is attributable to the petroleum permit, or to a permit-specific asset held solely for the permit. But this subsection does not apply to an amount that has previously been allowed as a deduction.

Allocation

(2) The deduction is allocated to the income year in which the petroleum miner relinquishes the petroleum permit.

Petroleum permit

(3) Expenditure incurred to acquire a petroleum permit must be attributed to the permit area of the petroleum permit.

When subsection (3) applies

(4) Subsection (3) applies for the purposes of sections CT 1 to CT 6, CG 12, CX 38, DT 1 to DT 14, DT 16 to DT 21, EK 9 to EK 16, EZ 2, GC 12, and IH 3, all of which are sections dealing with petroleum mining.

Origin:	(1) DM 1(5)(a). (2) DM 1(5)(a). (3) DM 1(4)(b). (4) DM 1(4).
Defined terms:	amount, deduction, income year, permit area, permit-specific asset, petroleum miner, petroleum permit.

EK 11 Disposal of petroleum mining asset

Circumstance allowing acceleration

(1) A petroleum miner who disposes of a petroleum mining asset and derives income from the disposal under section CT 1 (2) (Disposal of exploratory material or petroleum mining asset) is allowed a deduction for expenditure that is attributable to the petroleum mining asset. But this subsection does not apply to an amount that has previously been allowed as a deduction.

Allocation

(2) The deduction is allowed in the income year in which the petroleum miner derives income from the disposal of the asset under section CT 1.

Allocation to several years

(3) If the income is derived in more than 1 income year,—

(a) the amount that is allowed as a deduction must be allocated to each of those income years; and

(b) the deduction allowed in each of those years must bear the same proportion to the total deduction from the disposal that the income derived in each of those years bears to the total income derived from the disposal.

Permit-specific asset

(4) Expenditure incurred to acquire a permit-specific asset must be attributed to—

(a) the asset; and

(b) the permit area in which the asset is used.

When subsection (4) applies

(5) Subsection (4) applies for the purposes of sections CT 1 to CT 6, CG 12, CX 38, DT 1 to DT 14, DT 16 to DT 21, EK 9 to EK 16, EZ 2, GC 12, and IH 3, all of which are sections dealing with petroleum mining.

Origin:	(1) DM 1(5)(b). (2) DM 1(5)(b). (3) DM 1(5)(b) proviso.

	(4) DM 1(4)(a).
	(5) DM 1(4).
Defined terms:	amount, deduction, derived, disposal, income, income year, permit area, permit-specific asset, petroleum miner, petroleum mining asset.

EK 12 Expenditure on removal or restoration operations

Deduction allowed for expenditure on removal or restoration

(1) A petroleum miner is allowed a deduction for expenditure incurred by them on removal or restoration operations.

Matching rules for cost of revenue account property

(2) Section EB 2 (Other revenue account property) does not apply to expenditure that is allowed as a deduction under subsection (1).

Origin:	(1) DM 2. (2) new.
Defined terms:	deduction, petroleum miner, removal or restoration operations, revenue account property.

EK 13 Petroleum mining operations outside New Zealand

Sections CT 1 to CT 4 and CT 6 to CT 8, CG 12, 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 undertaking 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 an overseas country, has been moved to section 91 of the Tax Administration Act 1994 (see the consequential amendments in volume 3).

EK 14 Partnership interests and disposal of part of asset

When this section applies

(1) This section applies for the purposes of sections CT 1 to CT 5, CT 7, CT 8, CG 12, 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) of this Act and 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 referred to 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 disposal of an asset apply equally to disposal of part of an asset.

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

EK 15 'Onshore development' defined

Meaning

(1) In section EK 9, **onshore development**—

(a) means facilities for 1 or more of the activities described in subsection (2); and

(b) does not include facilities for treating 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; and

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

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

(d) removal or restoration operations.

Origin:	(1) OB 1 'development operations', 'further processing', 'onshore development'. (2) OB 1 'development operations', 'further processing' 'onshore development'.
Defined terms:	onshore development, permit area, petroleum, removal or restoration operations.

EK 16 'Offshore development' defined

Meaning

(1) In section EK 9, **offshore development**—

(a) means facilities for 1 or more of the activities described in subsection (2) the major part of which are situated in the sea or in an area of foreshore that is on the seaward side of the mean high-water mark; and

(b) does not include facilities for treating 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; and

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

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

(d) removal or restoration operations.

Origin:	(1) OB 1 'development operations', 'further processing' 'onshore development'. (2) OB 1 'development operations', 'further processing' 'onshore development'.
Defined terms:	offshore development, permit area, petroleum, removal or restoration operations.

Leases

EK 17 Payment by lessee under personal property and operating leases

Payments made under a lease of personal property (that is not a specified lease) or an operating lease are treated as being paid for the term of the lease. The expenditure that a lessee incurs is allocated to income years using the formula—

$$\frac{\text{part of lease term that falls within the income year}}{\text{lease term}} \quad x \quad \text{sum of lease payments.}$$

Origin:	EO 2; EO 2A.
Defined terms:	income year, lease, lease payment, lessee, operating lease, specified lease, term of the lease.
Comment:	Deductions allowed for payments under non-specified and operating leases are currently spread over the term of the lease by current sections EN 2 (Deduction to lessee in non-specified lease) and EN 2A (Deduction to lessee under operating lease) respectively. The terminology used to effect the allocation is ‘deemed to be paid in respect of the lease term’ (current section EO 2(1)), and ‘treated as being paid for the lease term’ (current section EN 2A). Formulas are then prescribed that, although effecting an allocation of proportions to income years, are presented as calculating an amount allowed as a deduction (current section EN 2 (2)) and calculating an amount of expenditure incurred (current section EN 2A (2)). Because current sections EN 2 and EN 2A perform the same function, they have been brought together in a single section which applies to both types of lease. Consistently with draft section BD 4, the new section abandons the general statements about payments being for the term of the lease and expresses the spreading in terms of deductions being allocated to income years.

EK 18 Payment by lessee for non-compliance with covenant for repair

Election to allocate amount

(1) A lessee of land who is allowed a deduction under section DB 13 (Payments for non-compliance with covenant for repair) may instead choose to allocate some or all of the amount of the deduction to any one or more of the 3 income years before the income year in which the amount was paid or recovered. But the lessee may make an allocation only in income years in which they use the land for deriving income.

Year of payment or recovery

(2) An amount allocated under this section is not allowed as a deduction in the income year in which the amount was paid or recovered.

Making the election

(3) The lessee makes the election by giving notice to the Commissioner, specifying the manner of the allocation. The lessee must give the notice to the Commissioner within the time required to file a return of income for the income year in which the amount was paid or recovered, or within a longer time if the Commissioner agrees. The notice is irrevocable.

Origin:	(1) EO 5(4). (2) EO 5(6). (3) EO 5(5).
Defined terms:	amount, Commissioner, deduction, derived, income, income year, lessee, notice, return of income.

Comment:	Currently, the deduction allowed to a lessee for a payment which they are required to make as a result of not performing an obligation to maintain or repair land is primarily allocated to the year of payment by current section EN 5 (1) (Payments for non-compliance with covenant to repair). But subsection (2) allows the lessee to spread the deduction over the 3 preceding income years. Current section EN 5 also performs the initial function of allowing the deduction. Expenditure incurred in making such a payment is now a deduction in a separate section in draft Part D (Deductions) (draft section DB 13). The rule which allows lessees to allocate the deduction to earlier income years is now expressed in this separate section in draft Part E (Timing and quantifying rules). This is consistent with the core provisions.

Superannuation contributions

EK 19 Contributions to employees' superannuation schemes

Allocation

(1) An employer who is allowed a deduction for a superannuation contribution to an employees' superannuation scheme under section DC 8 (Contributions to employees' superannuation schemes) may choose to have the deduction allocated to the income year in which they make the superannuation contribution when it is made within 63 days after the end of—

(a) the income year in which it was required to be made under the conditions of the superannuation scheme; or

(b) the income year in which the amount of the contribution was calculated, taking into account the earnings paid to an employee who was a member of the scheme during the income year.

When election required

(2) The employer must make the election before filing a return of income for the income year.

Origin:	(1) DF 3(1); EO 1. (2) EO 1.
Defined terms:	amount, deduction, employee, employer, income year, return of income, superannuation contribution, superannuation scheme.

EL – Taxes and levies

Index

EL 1 Fringe benefit tax

Fringe benefit tax that is allowed as a deduction may be deducted only in the income year in which the relevant fringe benefits were provided or granted, whether or not the tax actually became due and payable in the income year.

Origin:	ED 2.
Defined terms:	deduction, fringe benefit tax, income year.

EL 2 Specified superannuation contribution withholding tax

Specified superannuation contribution withholding tax that is allowed as a deduction may be deducted only in the income year in which the specified superannuation contributions to which the tax relates were made, whether or not the tax actually became due and payable in the income year.

Origin:	ED 3.
Defined terms:	deduction, income year, specified superannuation contribution, specified superannuation contribution withholding tax.

EL 3 ACC levies and premiums

Year of deduction

(1) A deduction that an employer or self-employed person is allowed for an ACC levy or premium is allocated to the income year in which it becomes due and payable, except as provided in subsections (2) and (3).

Special provision for balance dates between 1 October and 6 April

(2) If a person's income year ends on a balance date falling between 1 October and 6 April (both dates inclusive), an ACC levy or premium that is due on a date in schedule 13, column E, is to be treated as if it

were due and payable on the relevant date in column D of that schedule. But this subsection does not apply to a base premium for the 1998/99 premium year (see section EZ 3 (Base premium for 1990-99 premium year under Accident Insurance Act 1998)).

Exception: deduction in earlier income year and assessment stands

(3) Despite subsection (1), if a deduction for an ACC levy or premium has been allocated to an income year earlier than the income year in which the levy or premium becomes due and payable and, because of the time bar or for another reason, the Commissioner cannot lawfully amend the assessment for the income year, the deduction is allocated to the income year in which it was allowed as a deduction.

'ACC levy or premium' defined

(4) In this section, **ACC levy or premium** means any of the following levies, premiums, or penalties payable under the Accident Insurance Act 1998:

(a) a levy to meet the costs of the Regulator under section 236:

(b) a contribution to the Insolvent Insurers Fund under section 246 or section 247:

(c) a levy or penalty payable to the Non-Compliers Fund under section 263:

(d) an employer's premium to fund the Employers' Account under section 281B:

(e) a premium to fund the Earners' Account under section 283 (1):

(f) an Earners' Account levy under section 283 (2):

(g) a premium to fund the Self-Employed Work Account under section 300:

(h) a Residual Claims levy under section 304:

(i) a base premium under sections 466 to 470.

References to dates in schedule 13

(5) For the purposes of subsection (2)**,** references to dates in schedule 13 (which refers to months only, and not days) are references to the day in the relevant month that is fixed by whichever is relevant of**—**

(a) the definitions of **first instalment date**, **second instalment date**, and **third instalment date** in section OB 1 (Definitions); and

(b) section MB 5A (Amount of provisional tax instalments in transitional year), section MC 1 (Assessment and payment of terminal tax), and section MC 2 (Payment of tax).

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

	(3) ED 1(2), (3); ED 1A(4); ED 1B(3).
	(4) ED 1A(2); ED 1B(4).
	(5) new.
Defined terms:	ACC levy or premium, Commissioner, deduction, employer, first instalment date, income year, person, second instalment date, third instalment date, time bar.

EL 4 Use of money interest payable by Commissioner

When derived as income

(1) Income that is interest payable by the Commissioner to a person under Part VII of the Tax Administration Act 1994 is allocated to the income year in which the Commissioner pays the interest, unless this section provides otherwise.

Interest paid in same year as liability arises

(2) If the Commissioner pays the interest in the same income year in which the income tax liability is initially assessed, the interest is allocated to the following income year.

Interest arising from amended assessment

(3) If the Commissioner amends the assessment of a person's income tax liability, income that is interest payable (or overpaid interest repayable) by the Commissioner as a result of the amended assessment is allocated to the income year following the income year in which the Commissioner issues the notice of amended assessment.

Amended assessment in same income year

(4) For the purposes of subsection (3), if the Commissioner amends the assessment of a person's income tax liability more than once in an income year, only the last amended assessment is to be taken into account.

Origin:	(1) ED 6(2)(b).
	(2) ED 6(2)(a), (3).
	(3) ED 7(1)(b), (c).
	(4) ED 7(2).
Defined terms:	Commissioner, derived, income, income tax liability, income year, interest, notice, pay, person.

EL 5 Use of money interest payable by person

Deduction of known interest amounts

(1) A deduction for interest payable by a person to the Commissioner under Part VII of the Tax Administration Act 1994 is allocated to the income year in which the Commissioner issues the initial assessment, unless this section provides otherwise.

Exception if assessment issued in same year as interest arises

(2) If the Commissioner issues an initial assessment for the income tax liability to which the interest relates in the same income year in which the liability arises, a deduction for interest payable by the person to the Commissioner on the liability is allocated to the income year following that in which the notice of assessment is issued.

Effect of amended assessment

(3) If the Commissioner amends the assessment of a person's income tax liability, a deduction for interest payable (or overpaid interest repayable) to the Commissioner as a result of the amended assessment is allocated to the income year following that in which the Commissioner issues the notice of amended assessment. This subsection does not apply in the circumstances described in subsection (4).

Terminal amended assessment

(4) Despite subsection (3), if, as a result of an amended assessment, interest is payable or repayable to the Commissioner, it is treated as having been incurred in the income year in which the Commissioner issues the notice of amended assessment in the following circumstances:

(a) the person dies, goes into liquidation, or otherwise ceases to exist before the income year following that in which a notice of amended assessment is issued; and

(b) the interest payable or repayable would have been allowed as a deduction if it had been incurred in the income year in which the notice of assessment was issued; and

(c) the person's executor or other representative asks the Commissioner.

Amended assessment in same income year

(5) For the purposes of subsection (4), if the Commissioner amends the assessment of a person's liability more than once in an income year, only the last occasion is to be taken into account.

Origin:	(1) ED 6(1)(b), (3). (2) ED 6(1)(a), (3). (3) ED 7(1)(a), (d). (4) ED 7(3). (5) ED 7(2).
Defined terms:	amount, Commissioner, deduction, income year, income tax liability, liquidation, notice, person.

EL 6 Different income years

Sections EL 4 and EL 5 apply even though the income tax liability giving rise to the obligation to pay interest, and the period for the interest payment, may fall wholly or partly in a different income year from the year in which the interest is incurred or derived under those sections.

Origin:	ED 8.
Defined terms:	derived, income year, income tax liability, incurred, interest, pay, payment.

EM – Recognition of accounting treatment

Index

EM 1 Election to use foreign tax balance date

When this section applies

(1) This section applies when all the following apply:

(a) a person has foreign source income or foreign expenditure that is taken into account in determining the income tax (not merely the withholding tax) payable by them in a foreign country or territory; and

(b) the foreign source income or foreign expenditure has been included in one of their income tax returns in the country or territory; and

(c) the annual income tax balance date that is relevant for them for the income tax return in the country or territory falls in a period that is an income year for them; and

(d) if the person did not make an election under this section,—

(i) the foreign source income would be allocated to their previous income year; or

(ii) the foreign expenditure would be a deduction allocated to the previous income year if the only income of the person were foreign source income to which this section applies.

Election to allocate

(2) If the person has not already included the foreign source income or foreign expenditure in their return of income for the previous income year, they may choose to allocate the foreign source income or the foreign expenditure to the income year referred to in subsection (1)(c).

How election made

(3) The person makes the election by including the foreign source income or foreign expenditure in their return of income for the income year referred to in subsection (1)(c).

What election applies to

(4) The election applies to all the person's foreign source income and foreign expenditure to which subsection (1) applies, except for—

(a) income or expenditure under the financial arrangements rules, unless the Commissioner agrees in writing; or

(b) dividends, unless the Commissioner agrees in writing and the person is not a company; or

(c) attributed CFC income; or

(d) FIF income or income derived from an attributing interest in a foreign investment fund; or

(e) in the case of foreign expenditure, foreign expenditure that would be allowed as a deduction if the only income of the person were income to which paragraphs (a) to (d) apply.

Allocation

(5) The foreign source income and foreign expenditure to which the election applies is allocated to the income year referred to in subsection (1)(c).

Election treated as continuing

(6) A person who has made an election is treated as making the same election for all later income years, unless—

(a) the Commissioner agrees in writing to allow the person to revoke the election; or

(b) the person's net income for the relevant income year would be more than $100,000 if their only income for the year were foreign source income.

Net income of more than $100,000

(7) If subsection (6)(b) applies,—

(a) foreign source income and foreign expenditure is allocated to the income year referred to in subsection (1)(c) only if it was derived or incurred in that year; and

(b) foreign source income and foreign expenditure to which the election would have applied if subsection (6)(b) had not existed is allocated to the previous income year; and

(c) if necessary, the previous income year's return is amended.

Factors considered

(8) In deciding whether to agree to an election applying to income or expenditure under the financial arrangements rules or dividends, the Commissioner considers—

(a) whether the person is likely to incur significant compliance costs if the Commissioner does not agree to the election; and

(b) the risk to the revenue if the Commissioner agrees to the election; and

(c) any other factors the Commissioner considers relevant.

Person ceasing to be, or becoming, resident

(9) If the person ceases to be, or becomes, resident in New Zealand, this section applies in the same way as for other persons except that—

(a) it does not apply to income or expenditure that is allocated, other than under this section, to a period when the person is not resident in New Zealand; and

(b) if it allocates foreign source income derived or foreign expenditure incurred while the person is resident in New Zealand to a period after the person has ceased to be resident in New Zealand,—

(i) the foreign source income is counted income in the year in which the foreign source income is allocated under this section, despite section BD 1 (2)(b) (Income, exempt income, excluded income, and counted income); and

(ii) the foreign expenditure is allowed as a deduction in the year in which the foreign expenditure is allocated under this section.

Definitions for this section

(10) In this section,—

annual income tax balance date includes a date that is substantially equivalent to an annual income tax balance date

foreign expenditure means expenditure that is incurred in deriving foreign source income

foreign source income means income that is not derived from New Zealand and that is not exempt income.

Origin:	(1) EP 1(2). (2) EP 1(1), (3). (3) EP 1(4). (4) EP 1(6). (5) EP 1(5).

	(6) EP 1(5), (8). (7) EP 1(9). (8) EP 1(7). (9) EP 1(10). (10) EP 1(1)(a), (b), (11).
Defined terms:	annual income tax balance date, attributed CFC income, base year, Commissioner, company, deduction, dividend, exempt income, FIF income, financial arrangements rules, foreign expenditure, foreign investment fund, foreign source income, income, income year, net income, person, resident in New Zealand, return of income.

EM 2 Adjustment for change to accounting practice

When this section applies

(1) This section applies in an income year (the year of change) when a person changes from—

(a) a cash accounting method to an accrual accounting method of calculating their income tax liability; or

(b) an accrual accounting method to a cash accounting method of calculating their income tax liability.

This subsection is overridden by sections DA 1 to DA 4 (General rules), section DB 3 (5) (Determining tax liabilities), and section DB 4 (5) (Chatham Islands dues).

From cash to accrual accounting method

(2) If subsection (1)(a) applies,—

(a) an amount owed to the person on the last day of the income year before the year of change is income of the person in the year of change:

(b) an amount owed by the person on the last day of the income year before the year of change is allowed as a deduction in the year of change.

From accrual to cash accounting method

(3) If subsection (1)(b) applies,—

(a) an amount equal to the sum of all amounts owing by the person in the year of change that have been allowed as a deduction in previous income years is income of the person in the year of change:

(b) an amount equal to the sum of all amounts owing to the person in the year of change that have been treated as income of the person in previous income years is allowed as a deduction in the year of change.

Reduction of allocation

(4) If the effect of an adjustment under subsections (2) and (3) would be to increase a person's income in the year of change by more than $1,000, the Commissioner must give notice to the person who may then choose to reduce the amount of income allocated to that income year by the net adjustment amount, and—

(a) to allocate the income equally to the year of change and a number of previous income years (but not more than 3); or

(b) when the person continues in business, to allocate the income equally to the year of change and a number of later income years (but not more than 3).

Cancellation of allocation

(5) The Commissioner may cancel an allocation of income under subsection (4)(b) at any time. If the allocation is cancelled, the income allocated must be allocated to the income year of the cancellation to the extent to which it has not been allocated to a previous income year.

Election requirements

(6) An election under subsection (4) must be made by giving notice to the Commissioner within 1 month after the Commissioner's notification or, if the Commissioner agrees, a longer period. The election is irrevocable.

Definitions for this section

(7) In this section,—

accrual accounting method means a method of accounting that is regarded as accrual accounting under generally accepted accounting practice

cash accounting method means a method of accounting by which the income tax liability of a person is calculated by reference to cash receipts or outgoings.

Origin:	(1) EC 1(1). (2) EC 1(2). (3) EC 1(3). (4) EC 1(4). (5) EC 1(4) proviso. (6) EC 1(5). (7) EC 1.
Defined terms:	accrual accounting method, amount, business, cash accounting method, Commissioner, deduction, income, income tax liability, income year, notice, person.

EN – Income equalisation schemes

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Introductory provisions

EN 1 Income equalisation schemes

Description

(1) An income equalisation scheme allows a person to reduce their income for an income year by depositing some of it with the Commissioner.

Three schemes

(2) The 3 income equalisation schemes are—

(a) the main income equalisation scheme, described in sections EN 3 to EN 37:

(b) the adverse event income equalisation scheme, described in sections EN 38 to EN 64:

(c) the thinning operations income equalisation scheme, described in sections EN 65 to EN 81.

Definition of terms

(3) Terms used in the 3 schemes are defined as follows:

(a) terms used in the main income equalisation scheme are defined in sections EN 34 to EN 37:

(b) terms used in the adverse event income equalisation scheme are defined in sections EN 62 to EN 64:

(c) terms used in the thinning operations income equalisation scheme are defined in sections EN 80 and EN 81.

Origin:	(1) new. (2) new. (3) new.
Defined terms:	adverse event income equalisation scheme, Commissioner, deposit, income, income year, main income equalisation scheme, person, thinning operations income equalisation scheme.

EN 2 Income Equalisation Reserve Account

Account

(1) There is a Crown Bank Account called the Income Equalisation Reserve Account that is operated under the Public Finance Act 1989.

Deposits paid into account

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

(a) is public money; and

(b) must be paid into the Income Equalisation Reserve Account.

Origin:	(1) EI 1(2). (2) EI 1(2).
Defined terms:	Commissioner, deposit, person.

Main income equalisation scheme

Application

EN 3 Persons to whom main income equalisation scheme applies

Definitions of 'farmer', 'fisher', and 'forester' for main income equalisation scheme

(1) The main income equalisation scheme applies to—

(a) a **farmer**, which means a person carrying on a farming or agricultural business on land in New Zealand; or

(b) a **fisher**, which means a person carrying on a fishing business; or

(c) a **forester**, which means a person who—

(i) derives income from forestry; and

(ii) is not a company, a public authority, a Maori authority, or an unincorporated body.

Definition of 'person' for main income equalisation scheme

(2) In the main income equalisation scheme, **person** means a farmer, fisher, or forester.

Origin:	(1) EI 1(1). (2) EI 1(1).
Defined terms:	business, company, derived, farmer, fisher, fishing business, forester, income from forestry, main income equalisation scheme, Maori authority, New Zealand, person, public authority.

Deposits and accounts

EN 4 Main deposit

Deposit for business or forestry

(1) A person may make a payment to the Commissioner for entry in the person's main income equalisation account for an income year in accordance with the following:

(a) a farmer may make a payment for the farmer's farming business or agricultural business:

(b) a fisher may make a payment for the fisher's fishing business:

(c) a forester may make a payment for the forester's income from forestry.

Upper limit of deposit

(2) A person must not make, for an income year, deposits that in total are more than their main maximum deposit for the income year.

Lower limit of deposit

(3) A person must not make, for an income year, a deposit less than the lesser of—

(a) $200; and

(b) the difference between—

(i) the total of the deposits the person has previously made for the income year; and

(ii) the person's main maximum deposit for the income year.

Time of making deposit

(4) A person makes a deposit for an income year by—

(a) making the deposit during the income year; or

(b) doing both the following:

(i) making the deposit during the specified period for the income year:

(ii) at the time of making it, giving the Commissioner notice that the deposit is for the income year; or

(c) doing both the following:

(i) making the deposit within a time that is after the end of the specified period for the income year but that is allowed by the Commissioner in a case or class of cases:

(ii) at the time of making it, giving the Commissioner notice that the deposit is for the income year.

Limit on making deposit

(5) If a refund has been made to a person for an income year under section EN 13 or section EN 15, they may later make a deposit for that income year only if the Commissioner is satisfied, before the deposit is made, that all the refund has been used to develop or expand a farmer's business or a fisher's business or the means by which a forester derives income from forestry.

Origin:	(1) EI 1(3); EI 3. (2) EI 1(3). (3) EI 1(3). (4) EI 1(1). (5) EI 1(1).
Defined terms:	business, Commissioner, deposit, derived, farmer, fisher, fishing business, forester, income from forestry, income year, main deposit, main income equalisation account, main maximum deposit, notice, person, specified period.

EN 5 Main income equalisation account

Person's account

(1) The Commissioner must keep a main income equalisation account in the name of every person who makes a deposit with the Commissioner.

Deposits in account

(2) Every deposit a person makes with the Commissioner must be entered in the person's main income equalisation account.

Amounts in accounts

(3) The only amounts that may be entered in a person's main income equalisation account are—

(a) deposits made by the person with the Commissioner; and

(b) interest paid under section EN 6.

Amounts not available to others

(4) Amounts entered in a person's main income equalisation account must not, while they are in the account,—

(a) be assigned or charged in any way; or

(b) pass to, or into the custody or control of, any other person by operation of law, except when the person is bankrupt or has been put into liquidation; or

(c) be assets for the payment of the person's debts or liabilities, except when the person is bankrupt or has been put into liquidation; or

(d) be assets for the payment of the debts or liabilities of a dead person's estate.

Amounts available only for refunds

(5) The only payments that may be made from a person's main income equalisation account are refunds under any of sections EN 8, EN 10, EN 13, EN 15, EN 17, EN 19, EN 23, and EN 25.

Origin:	(1) EI 1(2). (2) EI 1(2). (3) EI 1(2). (4) EI 1(5). (5) EI 1(2), (5).
Defined terms:	amount, Commissioner, deposit, interest, liquidation, main income equalisation account, pay, person.

Interest

EN 6 Interest on deposits in main income equalisation account

No interest payable

(1) No interest is payable on a deposit in a main income equalisation account that is refunded within 12 months of the date of deposit.

Interest payable

(2) Interest is payable on every other deposit in a main income equalisation account.

Period

(3) Interest is computed with daily rests from the date of acknowledgment of the receipt of the deposit until the date the deposit ceases.

Date to which accrues

(4) Interest on a deposit accrues until the earlier of—

(a) 31 March in each year; and

(b) the date the deposit ceases.

Added to deposit

(5) Accrued interest on a deposit is added to the deposit.

Rate

(6) The interest rate is 3% annually.

Origin:	(1) EI 2(1).
	(2) EI 2(1).
	(3) EI 2(2).
	(4) EI 2(3).
	(5) EI 2(3).
	(6) EI 2(1).
Defined terms:	date the deposit ceases, deposit, interest, main income equalisation account, pay.

Deduction

EN 7 Deposit allowed as deduction

When this section applies

(1) This section applies when a person is allowed a deduction under section DQ 1 (Main income equalisation scheme).

Amount of deduction

(2) The amount of the deduction is the lesser of—

(a) the total of the person's deposits for the income year; and

(b) their main maximum deposit for the income year.

Allocation

(3) The person is allowed the deduction for the income year.

Origin:	(1) EI 3.
	(2) EI 3.
	(3) EI 3.
Defined terms:	amount, deduction, deposit, income year, main maximum deposit, person.

Refunds: automatic

EN 8 Refund of excess deposit

When this section applies

(1) This section applies when a person's deposits for an income year are more than their main maximum deposit for the income year.

Refund

(2) The Commissioner must refund the excess to the person as soon as practicable after it is calculated.

Origin:	(1) EI 1(4).
	(2) EI 1(4).
Defined terms:	Commissioner, deposit, income year, main maximum deposit, person.

EN 9 Income does not include excess deposit

A refund under section EN 8 is excluded income under section CX 44 (Income equalisation schemes).

Origin:	EI 1(4).
Defined terms:	excluded income.

EN 10 Refund at end of 5 years

When this section applies

(1) This section applies when a deposit is in a person's main income equalisation account at the end of 5 years after the end of the income year for which the deposit was made.

Refund

(2) The Commissioner must refund the deposit to the person. Section EN 28 overrides this subsection.

Origin:	(1) EI 9.
	(2) EI 9.
Defined terms:	Commissioner, deposit, income year, main income equalisation account, person.

EN 11 Income when refund given at end of 5 years

A refund under section EN 10 is income derived by the person in the income year in which the refund is given.

Origin:	EI 9.
Defined terms:	derived, income, income year, person.

Refunds: on application

EN 12 Application for refund by person, trustee of estate, Official Assignee, or liquidator

Who may apply

(1) The following may apply to the Commissioner for a refund of some or all of the amount in a person's main income equalisation account:

(a) the person may apply under section EN 13, section EN 15, or section EN 17:

(b) the trustee of the person's estate may apply under section EN 19:

(c) the Official Assignee having charge of the person's estate may apply under section EN 23:

(d) the liquidator appointed for the person may apply under section EN 25.

Application

(2) An application for a refund must—

(a) be in writing; and

(b) state the grounds on which it is made; and

(c) state the amount applied for.

Origin:	(1) EI 4(1); EI 5(1); EI 6(1); EI 7(1); EI 8(1); EI 19. (2) EI 4(1); EI 5(1); EI 6(1); EI 7(1); EI 8(1); EI 19.
Defined terms:	amount, Commissioner, liquidation, main income equalisation account, person, trustee.

EN 13 Refund on request

When this section applies

(1) This section applies when a person wants a refund of some or all of the amount in their main income equalisation account, and none of sections EN 8, EN 10, EN 15, EN 17, EN 19, EN 23, and EN 25 applies.

Refund

(2) The Commissioner must refund to the person the amount applied for, to the extent to which it can be made up of one or more deposits that have been in the person's main income equalisation account for at least 12 months before the date of the application. Section EN 28 overrides this subsection.

Origin:	(1) EI 4(1). (2) EI 4(2).

Defined terms:	amount, Commissioner, deposit, main income equalisation account, person.

EN 14 Income when refund given on request

Year of income

(1) A refund under section EN 13 is income derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

(2) However, subsection (3) applies instead of subsection (1) if—

(a) the Commissioner receives the application for a refund in the specified period for an income year or, if the Commissioner allows in a case or class of cases, within a longer period; and

(b) the person chooses in the application that the refund is to be income in the income year to which the specified period or the longer period relates.

Different year of income

(3) The refund is income in the income year to which the specified period or the longer period relates.

Origin:	(1) EI 4(5). (2) EI 4(5). (3) EI 4(5).
Defined terms:	Commissioner, derived, income, income year, person, specified period.

EN 15 Refund for development or recovery

Refund for development: application of subsection (2)

(1) Subsection (2) applies when a person wants a refund of some or all of the amount in their main income equalisation account for either or both of the following purposes:

(a) to enable them to undertake, immediately after the refund is given, planned development or maintenance work for their farming business, agricultural business, fishing business, or forestry operation:

(b) to enable them to buy, immediately after the refund is given, livestock for use in their farming business, other than livestock replacing livestock disposed of or lost as a result of a self-assessed adverse event.

Refund

(2) If the Commissioner is satisfied that the person will use the refund for either or both of the purposes, the Commissioner must refund to them

the amount applied for, to the extent to which it can be made up of one or more deposits that have been in their main income equalisation account for at least 6 months before the date of the application. Section EN 28 overrides this subsection.

Refund for recovery: application of subsection (4)

(3) Subsection (4) applies when a person wants a refund of some or all of the amount in their main income equalisation account for one or more of the following purposes:

(a) to enable them to buy, immediately after the refund is given, livestock for use in their farming business to replace livestock disposed of or lost as a result of a self-assessed adverse event:

(b) to avoid them suffering serious hardship:

(c) to do anything else that the Commissioner determines, in a case or class of cases, is a purpose for which a refund should be given.

Refund

(4) If the Commissioner is satisfied that the person will use the refund for one or more of the purposes, the Commissioner must refund to them the amount applied for, regardless of the length of time it has been in the account.

Origin:	(1) EI 4(3). (2) EI 4(3). (3) EI 4(4). (4) EI 4(4).
Defined terms:	amount, business, Commissioner, deposit, fishing business, main income equalisation account, person, self-assessed adverse event.

EN 16 Income when refund given for development or recovery

Year of income

(1) A refund under section EN 15 is income derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

(2) However, subsection (3) applies instead of subsection (1) if—

(a) the Commissioner receives the application for a refund in the specified period for an income year or, if the Commissioner allows in a case or class of cases, within a longer period; and

(b) the person chooses in the application that the refund is to be income in the income year to which the specified period or the longer period relates.

Different year of income

(3) The refund is income in the income year to which the specified period or the longer period relates.

Origin:	(1) EI 4(5). (2) EI 4(5). (3) EI 4(5).
Defined terms:	Commissioner, derived, income, income year, person, specified period.

EN 17 Refund on retirement

When this section applies

(1) This section applies when a farmer or a fisher—

(a) has a main income equalisation account; and

(b) is neither a company nor a trustee; and

(c) retires from the farming business or agricultural business or fishing business.

Refund

(2) The Commissioner must refund to the person the amount in their main income equalisation account on the date of their retirement, regardless of the length of time it has been in the account. Section EN 28 overrides this subsection.

Origin:	(1) EI 5(1). (2) EI 5(1).
Defined terms:	amount, business, Commissioner, company, farmer, fisher, fishing business, main income equalisation account, person, trustee.

EN 18 Income when refund given on retirement, and election to allocate amount to earlier year

Year of income

(1) A refund under section EN 17 is income derived by the person in the income year in which they retire.

When year of income may be different

(2) However, subsection (3) applies instead of subsection (1) if—

(a) the refund includes a deposit made for an income year earlier than the income year in which the person retires; and

(b) the person chooses to allocate some or all of the deposit to the earlier income year.

Different year of income

(3) The amount allocated by the person to the earlier income year is income derived by them in the income year.

How election made

(4) A person makes an election under this section by giving the Commissioner notice within one of the following times:

(a) the time within which the person is required to file a return of their income for the income year in which they retire:

(b) a further time allowed by the Commissioner in a case or class of cases.

Origin:	(1) EI 5(1). (2) EI 5(1) proviso. (3) EI 5(1) proviso. (4) EI 5(2).
Defined terms:	amount, Commissioner, deposit, derived, income, income year, notice, person, return of income.

EN 19 Refund on death

When this section applies

(1) This section applies when a person—

(a) has a main income equalisation account; and

(b) dies.

Refund

(2) The Commissioner must refund to the trustee of the person's estate the amount in the person's main income equalisation account on the date of the person's death, regardless of the length of time it has been in the account. Section EN 28 overrides this subsection.

Origin:	(1) EI 6(1). (2) EI 6(1).
Defined terms:	amount, Commissioner, main income equalisation account, person, trustee.

EN 20 Income when refund given on death

Year of income

(1) A refund under section EN 19 is income derived by the person immediately before their death.

When year of income may be different

(2) However, section EN 20 or section EN 21 applies instead of subsection (1) if the circumstances described in section EN 20 (1) or section EN 21 (1) apply in the person's case.

Origin:	(1) EI 6(1). (2) EI 6(1).
Defined terms:	derived, income, person.

EN 21 Income when refund given on death, and election to allocate amount to earlier year

When this section applies

(1) This section applies when—

(a) a refund under section EN 19 includes a deposit made for an income year earlier than the income year in which the person dies; and

(b) the trustee of the person's estate chooses to allocate some or all of the deposit to the earlier income year.

Different year of income

(2) The amount allocated by the trustee to the earlier income year is income derived by the person in the income year.

How election made

(3) A trustee makes an election under this section by giving the Commissioner notice within one of the following times:

(a) the time within which the trustee is required to file a return of the person's income for the period to the date of the person's death:

(b) a further time allowed by the Commissioner in a case or class of cases.

Origin:	(1) EI 6(1) first proviso. (2) EI 6(1) first proviso. (3) EI 6(2).
Defined terms:	amount, Commissioner, deposit, derived, income, income year, notice, person, return of income, trustee.

EN 22 Income when refund given on death, and election to allocate amount to later year or years

When this section applies

(1) This section applies when—

(a) the trustee of the person's estate does not make an election under section EN 20; and

(b) the trustee chooses to allocate some or all of the amount in the person's main income equalisation account on the date of the person's death to an income year or years after that date.

Income year or years referred to in subsection (1)(b)

(2) The income year or years referred to in subsection (1)(b) must be within the earlier of—

(a) the 3 years after the date of the person's death; and

(b) the 5 years after the end of the income year for which a deposit or a part of a deposit was made, if the amount that the trustee allocates to a later year or years includes the deposit or part of it.

Allocated amount remains in account

(3) An amount allocated by the trustee to a later income year remains in the person's main income equalisation account until it is refunded to the trustee in the income year to which it is allocated. Section EN 28 overrides this subsection.

Different year of income

(4) An amount allocated by the trustee to a later income year is income derived by the person in the income year.

How election made

(5) A trustee makes an election under this section by a notice that—

- (a) specifies—
  - (i) each amount allocated to a later income year; and
  - (ii) the income year to which each amount is allocated; and
- (b) is given to the Commissioner within one of the following times:
  - (i) the time within which the trustee is required to file a return of the person's income for the period to the date of the person's death:
  - (ii) a further time allowed by the Commissioner in a case or class of cases.

Origin:	(1) EI 6(1) second proviso. (2) EI 6(1) second proviso. (3) EI 6(1) second proviso. (4) EI 6(1) second proviso. (5) EI 6(2).
Defined terms:	amount, Commissioner, deposit, derived, income, income year, main income equalisation account, notice, person, return of income, trustee.

EN 23 Refund on bankruptcy

When this section applies

(1) This section applies when a person—

- (a) has a main income equalisation account; and
- (b) is bankrupt.

Refund

(2) The Commissioner must refund to the Official Assignee having charge of the person's estate the amount in the person's main income

equalisation account on the date on which the Commissioner receives notice of the adjudication, regardless of the length of time it has been in the account. Section EN 28 overrides this subsection.

Origin:	(1) EI 7(1).
	(2) EI 7(1).
Defined terms:	amount, Commissioner, main income equalisation account, person.

EN 24 Income when refund given on bankruptcy

A refund under section EN 23 is income derived by the person immediately before the bankruptcy starts.

Origin:	EI 7(2)
Defined terms:	derived, income, person.

EN 25 Refund on liquidation

When this section applies

(1) This section applies when a person—

(a) has a main income equalisation account; and

(b) is put into liquidation.

Refund

(2) The Commissioner must refund to the liquidator appointed for the person the amount in the person's main income equalisation account on the date on which the Commissioner receives notice of the liquidation, regardless of the length of time it has been in the account. Section EN 28 overrides this subsection.

Origin:	(1) EI 8(1).
	(2) EI 8(1).
Defined terms:	amount, Commissioner, liquidation, main income equalisation account, person.

EN 26 Income when refund given on liquidation

A refund under section EN 25 is income derived by the person immediately before the liquidation starts.

Origin:	EI 8(2).
Defined terms:	derived, income, liquidation, person.

Refunds: general provisions

EN 27 Amendment of assessment

Despite the time bar, the Commissioner may amend an assessment at any time in order to give effect to section EN 18, section EN 21, or section EN 22.

Origin:	EI 5(3); EI 6(3).
Defined terms:	Commissioner, time bar.

EN 28 Minimum refund

The Commissioner must not give a refund under any of sections EN 10, EN 13, EN 15, EN 17, EN 19, EN 21 (3), EN 23, and EN 25 that is less than the lesser of—

(a) $200; and

(b) the balance in the person's main income equalisation account on the date the deposit ceases.

Origin:	EI 10 (2).
Defined terms:	Commissioner, date the deposit ceases, main income equalisation account, person.

EN 29 Deposits from which refunds come

Each refund a person is given is treated as coming from the total amount of their deposits in the order in which the person made the deposits.

Origin:	EI 10 (1).
Defined terms:	amount, deposit, person.

Rebate of income tax

EN 30 When person allowed rebate of income tax

A person who is given a refund is allowed a rebate of income tax if—

(a) the refund is of the kind and amount described in section EN 31; and

(b) the person is of the kind described in section EN 32.

Origin:	EI 10(3).
Defined terms:	amount, income tax, person.

EN 31 Kind and amount of refund that allows rebate of income tax

Kind

(1) A refund that allows a rebate of income tax to a person is one to which both the following apply:

(a) the refund is given under any of sections EN 10, EN 13, EN 15, EN 17, EN 19, EN 21(3), EN 23, and EN 25; and

(b) the refund does not come from a deposit made for the income year in which the refund is given; if the refund comes in part from a deposit made for the income year in which the refund is given and in part from a deposit made for some other income year, the refund that allows a rebate of income tax is the part coming from the deposit for some other income year.

Amount

(2) Once a refund qualifies under subsection (1) as a refund that allows a rebate of income tax to a person, the amount of the refund is the lesser of the following:

(a) the amount of the refund given to the person under any of sections EN 10, EN 13, EN 15, EN 17, EN 19, EN 21 (3), EN 23, and EN 25; and

(b) the total of the amounts by which the person's income was reduced in one or more previous income years by subtracting the deposit or deposits or parts of deposits from which the refund comes.

Origin:	(1) EI 10(3).
	(2) EI 10(5).
Defined terms:	amount, deposit, income, income tax, income year, person.

EN 32 Kind of person allowed rebate of income tax

A person in the following circumstances is allowed a rebate of income tax:

(a) the person's income for the income year in question includes a refund of the kind described in section EN 31 (1) and of the amount described in section EN 31 (2); and

(b) because of the refund, the person's income tax liability for the tax year is increased; and

(c) the amount by which the person's income tax liability for the tax year is increased because of the refund (the extra tax) is more than the total of the amounts by which the person's income tax liability for a previous tax year or years was decreased because of the subtraction of the deposit or deposits or parts of deposits from which the refund comes (the tax saving).

Origin:	EI 10(3), (4).
Defined terms:	amount, deposit, income, income tax, income tax liability, income year, person, tax year.

EN 33 Amount of rebate of income tax allowed

The amount of a rebate of income tax allowed under section EN 30 is the amount by which the extra tax, as described in section EN 32 (c), is more than the tax saving, as described in section EN 32 (c).

Origin:	EI 10(3).
Defined terms:	amount, income tax.

Definitions used in main income equalisation scheme

EN 34 Definitions used in main income equalisation scheme

In the main income equalisation scheme,—

date the deposit ceases means—

(a) the date on which the refund is calculated, when any of sections EN 8, EN 13, and EN 15 applies:

(b) the date that is 5 years after the end of the income year for which the deposit was made, when section EN 10 applies:

(c) the date of the person's retirement, when section EN 17 applies:

(d) the date of the person's death, when section EN 19 applies:

(e) the date on which the Commissioner receives notice of the adjudication, when section EN 23 applies:

(f) the date on which the Commissioner receives notice of the liquidation, when section EN 25 applies

deposit—

(a) means a main deposit; and

(b) includes, for the purposes of sections EN 6 (2) to (4) and EN 10 to EN 33, interest that is added to a main deposit under section EN 6 (5)

fishing business includes a business of—

(a) fish farming under a licence issued under the Freshwater Fish Farming Regulations 1983:

(b) mussel farming:

(c) rock oyster farming

income from forestry has the meaning given to it by section EN 35

main deposit means a payment made to the Commissioner under section EN 4 (1)

main income equalisation account, in relation to a person, means the account that the Commissioner keeps in the person's name under section EN 5

main maximum deposit has the meaning given to it by section EN 36

self-assessed adverse event has the meaning given to it by section EN 37

specified period, in relation to a person's income year, means the shorter of—

(a) the period of 6 months after the end of the income year; and

(b) the period from the end of the income year to the date 1 month after the date by which the person must file their return of income for the income year.

Origin:	OB 1 'fishing' (b), 'specified period' (a).
Defined terms:	business, Commissioner, date the deposit ceases, deposit, fishing business, income from forestry, income year, interest, liquidation, main deposit, main income equalisation account, main income equalisation scheme, main maximum deposit, person, return of income, self-assessed adverse event, specified period.

EN 35 'Income from forestry': definition referred to in section EN 34

Income

(1) **Income from forestry** means income derived from either or both of the sales described in subsection (2) in the circumstances described in subsection (3).

Sales

(2) The sales are—

(a) the sale of timber:

(b) the sale of a right to cut or remove timber.

Circumstances

(3) The circumstances are—

(a) the income is derived by a person who is the owner of land in New Zealand on which timber is grown, not including a person whose interest in the land is that of a licensee; and

(b) the timber the subject of the sale is standing or cut or fallen timber in its natural state grown on the land.

Origin:	(1) OB 1 'gross income from forestry'. (2) OB 1 'gross income from forestry'. (3) OB 1 'gross income from forestry'.
Defined terms:	derived, income, New Zealand, owner, person, timber.

EN 36 ‘Main maximum deposit’: definition referred to in section EN 34

Meaning

(1) **Main maximum deposit** means the maximum deposit that this section says a person may make to their main income equalisation account for an income year.

Matters excluded

(2) In subsections (3) to (5), **amount** means an amount calculated without applying—

(a) any provision allocating income derived or expenditure incurred to an income year other than the income year in which the income was in fact derived or the expenditure was in fact incurred; or

(b) any provision of any of the income equalisation schemes referred to in section EN 1 (2).

Maximum deposit of farmer

(3) The maximum deposit that a farmer may make is—

(a) the amount determined by an Order in Council made under subsection (6); or

(b) if no order is in force, an amount equal to the net income that the farmer would have for the income year if—

(i) the farmer derived income only from the farming or agricultural business in the income year; and

(ii) the farmer did not make a payment under section EN 7 for the farming or agricultural business for the income year.

Maximum deposit of fisher

(4) The maximum deposit that a fisher may make is an amount equal to the net income that the fisher would have for the income year if the fisher derived income only from the fishing business in the income year.

Maximum deposit of forester

(5) The maximum deposit that a forester may make is an amount equal to the net income that the forester would have for the income year if the forester derived only income from forestry in the income year.

Order in Council relating to farmers

(6) The Governor-General may, by Order in Council, declare that the maximum deposit a farmer may make for an income year or for every income year is—

(a) an amount calculated in the manner specified in the order; or

(b) an unlimited amount.

Origin:	(1) OB 1 'maximum deposit'. (2) OB 1 'maximum deposit'. (3) OB 1 'maximum deposit'. (4) OB 1 'maximum deposit'. (5) OB 1 'maximum deposit'. (6) OB 1 'maximum deposit'.
Defined terms:	amount, business, deposit, derived, farmer, fisher, fishing business, forester, income, income year, main income equalisation account, main maximum deposit, net income, person.

EN 37 'Self-assessed adverse event': definition referred to in section EN 34

Meaning

(1) **Self-assessed adverse event** means an event described in subsections (2) to (4).

Nature of event

(2) The event is one of the following:

(a) drought, fire, flood, or some other natural event:

(b) sickness or disease among livestock.

Effect of event

(3) The event materially affects the person's farming business or agricultural business or fishing business.

Event described to Commissioner

(4) The event, and its effect on the person's business, is described by the person in a statutory declaration given to the Commissioner.

Origin:	(1) OB 1 'self-assessed adverse event'. (2) OB 1 'self-assessed adverse event'. (3) OB 1 'self-assessed adverse event'. (4) OB 1 'self-assessed adverse event'.
Defined terms:	business, Commissioner, person, self-assessed adverse event.

Adverse event income equalisation scheme

Application

EN 38 Persons to whom adverse event income equalisation scheme applies

Person described

(1) The adverse event income equalisation scheme applies to a person who, in an income year,—

(a) carries on a farming or agricultural business on land in New Zealand; and

(b) because of a self-assessed adverse event, sells livestock and does not replace it.

Definition of 'person' for adverse event income equalisation scheme

(2) In the adverse event income equalisation scheme, **person** means a person described in subsection (1).

Origin:	(1) EI 11(1). (2) EI 11(1).
Defined terms:	adverse event income equalisation scheme, business, income year, New Zealand, person, self-assessed adverse event.

Deposits and accounts

EN 39 Adverse event deposit

Deposit for adverse event

(1) A person may make a payment to the Commissioner for entry in their adverse event income equalisation account for an income year in which, because of a self-assessed adverse event, they sell and do not replace livestock.

Upper limit of deposit

(2) A person must not make, for an income year, deposits that in total are more than their adverse event maximum deposit for the income year.

Lower limit of deposit

(3) A person must not make, for an income year, a deposit less than the lesser of—

(a) $200; and

(b) the difference between the total of all the deposits they have previously made for the income year and their adverse event maximum deposit for the income year.

Time of making deposit

(4) A person makes a deposit for an income year by—

(a) making the deposit during the income year; or

(b) making the deposit during the month after the end of the income year.

Origin:	(1) EI 11(1). (2) EI 11(3)(b). (3) EI 11(3)(a). (4) EI 11(1).
Defined terms:	adverse event deposit, adverse event income equalisation account, adverse event maximum deposit, Commissioner, deposit, income year, person, self-assessed adverse event.

EN 40 Adverse event income equalisation account

Person's account

(1) The Commissioner must keep an adverse event income equalisation account in the name of every person who makes a deposit with the Commissioner.

Deposits in accounts

(2) Every deposit a person makes with the Commissioner must be entered in their adverse event income equalisation account.

Amounts in accounts

(3) The only amounts that may be entered in a person's adverse event income equalisation account are—

(a) deposits made by the person with the Commissioner; and

(b) interest paid under section EN 41.

Amounts not available to others

(4) Amounts entered in a person's adverse event income equalisation account must not, while they are in the account,—

(a) be assigned or charged in any way; or

(b) pass to, or into the custody or control of, any other person by operation of law, except when the person is bankrupt or has been put into liquidation; or

(c) be assets for the payment of the person's debts or liabilities, except when the person is bankrupt or has been put into liquidation; or

(d) be assets for the payment of the debts or liabilities of a dead person's estate.

Amounts available only for refunds

(5) The only payments that may be made from a person's adverse event income equalisation account are refunds under any of sections EN 43, EN 46, EN 48, EN 50, EN 54, and EN 56.

Origin:	(1) EI 11(2). (2) EI 11(2). (3) EI 11(2). (4) EI 11(5). (5) EI 11(2).
Defined terms:	adverse event income equalisation account, amount, Commissioner, deposit, interest, liquidation, pay, person.

Interest

EN 41 Interest on deposits in adverse event income equalisation account

Interest payable

(1) Interest is payable on every deposit in an adverse event income equalisation account.

Period

(2) Interest is computed with daily rests from the date of acknowledgment of the receipt of the deposit until the date the deposit ceases.

Date to which accrues

(3) Interest on a deposit accrues until the earlier of—

(a) 31 March in each year; and

(b) the date the deposit ceases.

Added to deposit

(4) Accrued interest on a deposit is added to the deposit.

Rate

(5) The interest rate is the annual rate set in regulations made by the Governor-General from time to time.

Origin:	(1) EI 12(1). (2) EI 12(2). (3) EI 12(3). (4) EI 12(3). (5) EI 12(4).
Defined terms:	adverse event income equalisation account, date the deposit ceases, deposit, interest, pay.

Deduction

EN 42 Deposit allowed as deduction

When this section applies

(1) This section applies when a person is allowed a deduction under section DQ 2 (Adverse event income equalisation scheme).

Amount of deduction

(2) The amount of the deduction is the lesser of—

(a) the total of their deposits for the income year; and

(b) their adverse event maximum deposit for the income year.

Allocation

(3) The person is allowed the deduction for the income year.

Origin:	(1) EI 13. (2) EI 13. (3) EI 13.
Defined terms:	adverse event maximum deposit, amount, deduction, deposit, income year, person.

Refunds: automatic

EN 43 Refund of excess deposit

When this section applies

(1) This section applies when a person's deposits for an income year are more than their adverse event maximum deposit for the income year.

Refund

(2) The Commissioner must refund the excess to the person as soon as practicable after it is calculated.

Origin:	(1) EI 11(4). (2) EI 11(4).
Defined terms:	adverse event maximum deposit, Commissioner, deposit, income year, person.

EN 44 Income does not include excess deposit

A refund under section EN 43 is excluded income under section CX 44 (Income equalisation schemes).

Origin:	new.
Defined terms:	excluded income.

Refunds: on application

EN 45 Application for refund by person, trustee of estate, Official Assignee, or liquidator

Who may apply

(1) The following may apply to the Commissioner for a refund of some or all of the amount in a person's adverse event income equalisation account:

(a) the person may apply under section EN 46 or section EN 48:

(b) the trustee of the person's estate may apply under section EN 50:

(c) the Official Assignee having charge of the person's estate may apply under section EN 54:

(d) the liquidator appointed for the person may apply under section EN 56.

Application

(2) An application for a refund must—

(a) be in writing; and

(b) state the grounds on which it is made; and

(c) state the amount applied for.

Origin:	(1) EI 14(1).
	(2) EI 14(1).
Defined terms:	adverse event income equalisation account, amount, Commissioner, liquidation, person, trustee.

EN 46 Refund on request

When this section applies

(1) This section applies when a person wants a refund of some or all of the amount in the person's adverse event income equalisation account, and none of sections EN 48, EN 50, EN 54, and EN 56 applies.

Refund

(2) The Commissioner must refund to the person the amount applied for.

Origin:	(1) EI 14(1).
	(2) EI 14(1).
Defined terms:	adverse event income equalisation account, amount, Commissioner, person.

EN 47 Income when refund given on request

A refund under section EN 46 is income derived by the person in the income year in which the Commissioner receives the application for the refund.

Origin:	EI 14(2).
Defined terms:	Commissioner, derived, income, income year, person.

EN 48 Refund on retirement

When this section applies

(1) This section applies when a person—

(a) has an adverse event income equalisation account; and

(b) is neither a company nor a trustee; and

(c) retires from the farming or agricultural business.

Refund

(2) The Commissioner must refund to the person the amount in their adverse event income equalisation account on the date they retire.

Origin:	(1) EI 5(1); EI 15. (2) EI 5(1); EI 15.
Defined terms:	adverse event income equalisation account, amount, business, Commissioner, company, person, trustee.

EN 49 Income when refund given on retirement, and election to allocate amount to earlier year

Year of income

(1) A refund under section EN 48 is income derived by the person in the income year in which they retire.

When year of income may be different

(2) However, subsection (3) applies instead of subsection (1) if—

(a) the refund includes a deposit made for an income year earlier than the income year in which the person retires; and

(b) the person chooses to allocate some or all of the deposit to the earlier income year.

Different year of income

(3) The amount allocated by the person to the earlier income year is income derived by them in the income year.

How election made

(4) A person makes an election under this section by giving the Commissioner notice within one of the following times:

(a) the time within which the person is required to file a return of their income for the income year in which they retire:

(b) a further time allowed by the Commissioner in a case or class of cases.

Origin:	(1) EI 5(1); EI 15.
	(2) EI 5(1) proviso; EI 15.
	(3) EI 5(1) proviso; EI 15.
	(4) EI 5(2); EI 15.
Defined terms:	amount, Commissioner, deposit, derived, income, income year, notice, person, return of income.

EN 50 Refund on death

When this section applies

(1) This section applies when a person—

(a) has an adverse event income equalisation account; and

(b) dies.

Refund

(2) The Commissioner must refund to the trustee of the person's estate the amount in the person's adverse event income equalisation account on the date of the person's death.

Origin:	(1) EI 6(1); EI 15.
	(2) EI 6(1); EI 15.
Defined terms:	adverse event income equalisation account, amount, Commissioner, person, trustee.

EN 51 Income when refund given on death

Year of income

(1) A refund under section EN 50 is income derived by the person immediately before their death.

When year of income may be different

(2) However, section EN 52 or section EN 53 applies instead of subsection (1) if the circumstances described in section EN 52 (1) or section EN 53 (1) apply in the person's case.

Origin:	(1) EI 6(1); EI 15.
	(2) EI 6(1); EI 15.
Defined terms:	derived, income, person.

EN 52 Income when refund given on death, and election to allocate amount to earlier year

When this section applies

(1) This section applies when—

(a) a refund under section EN 50 includes a deposit made for an income year earlier than the income year in which the person dies; and

(b) the trustee of the person's estate chooses to allocate some or all of the deposit to the earlier income year.

Different year of income

(2) The amount allocated by the trustee to the earlier income year is income derived by the person in the income year.

How election made

(3) A trustee makes an election under this section by giving the Commissioner notice within one of the following times:

(a) the time within which the trustee is required to file a return of the person's income for the period to the date of the person's death:

(b) a further time allowed by the Commissioner in a case or class of cases.

Origin:	(1) EI 6(1) first proviso; EI 15. (2) EI 6(1) first proviso; EI 15. (3) EI 6(2); EI 15.
Defined terms:	amount, Commissioner, deposit, derived, income, income year, notice, person, return of income, trustee.

EN 53 Income when refund given on death, and election to allocate amount to later year or years

When this section applies

(1) This section applies when—

(a) the trustee does not make an election under section EN 52; and

(b) the trustee chooses to allocate some or all of the amount in the person's adverse event income equalisation account on the date of the person's death to an income year or years after that date.

Income year or years referred to in subsection (1)(b)

(2) The income year or years referred to in subsection (1)(b) must be within the earlier of—

(a) the 3 years after the date of the person's death; and

(b) the 5 years after the end of the income year for which a deposit or a part of a deposit was made, if the amount that the trustee allocates to a later year or years includes the deposit or part of it.

Amount allocated remains in account

(3) An amount allocated by the trustee to a later income year remains in the person's adverse event income equalisation account until it is refunded to the trustee in the income year to which it is allocated.

Different year of income

(4) An amount allocated by the trustee to a later income year is income derived by the person in the income year.

How election made

(5) A trustee makes an election under this section by a notice that—

(a) specifies—

(i) each amount allocated to a later income year; and

(ii) the income year to which each amount is allocated; and

(b) is given to the Commissioner within one of the following times:

(i) the time within which the trustee is required to file a return of the person's income for the period to the date of the person's death:

(ii) a further time allowed by the Commissioner in a case or class of cases.

Origin:	(1) EI 6(1) second proviso; EI 15. (2) EI 6(1) second proviso; EI 15. (3) EI 6(1) second proviso; EI 15. (4) EI 6(1) second proviso; EI 15. (5) EI 6(2); EI 15.
Defined terms:	adverse event income equalisation account, amount, Commissioner, deposit, derived, income, income year, notice, person, return of income, trustee.

EN 54 Refund on bankruptcy

When this section applies

(1) This section applies when a person—

(a) has an adverse event income equalisation account; and

(b) is bankrupt.

Refund

(2) The Commissioner must refund to the Official Assignee having charge of the person's estate the amount in the person's adverse event income

equalisation account on the date on which the Commissioner receives notice of the adjudication.

Origin:	(1) EI 7(1); EI 15.
	(2) EI 7(1); EI 15.
Defined terms:	adverse event income equalisation account, amount, Commissioner, person.

EN 55 Income when refund given on bankruptcy

A refund under section EN 54 is income derived by the person immediately before the bankruptcy starts.

Origin:	EI 7(2); EI 15.
Defined terms:	derived, income, person.

EN 56 Refund on liquidation

When this section applies

(1) This section applies when a person—

(a) has an adverse event income equalisation account; and

(b) is put into liquidation.

Refund

(2) The Commissioner must refund to the liquidator appointed for the person the amount in the person's adverse event income equalisation account on the date on which the Commissioner receives notice of the liquidation.

Origin:	(1) EI 8(1); EI 15.
	(2) EI 8(1); EI 15.
Defined terms:	adverse event income equalisation account, amount, Commissioner, liquidation, person.

EN 57 Income when refund given on liquidation

A refund under section EN 56 is income derived by the person immediately before the liquidation starts.

Origin:	EI 8 (2); EI 15.
Defined terms:	derived, income, liquidation, person.

Refunds: general provisions

EN 58 Amendment of assessment

Despite the time bar, the Commissioner may amend an assessment at any time in order to give effect to section EN 49, section EN 52, or section EN 53.

Origin:	EI 5(3); EI 6(3); EI 15.
Defined terms:	Commissioner, time bar.

EN 59 Minimum refund

The Commissioner must not give a refund under any of sections EN 46, EN 48, EN 50, EN 54, and EN 56 that is less than the lesser of—

(a) $200; and

(b) the balance in the person's adverse event income equalisation account on the date the deposit ceases.

Origin:	EI 16(2).
Defined terms:	adverse event income equalisation account, Commissioner, date the deposit ceases, person.

EN 60 Deposits from which refunds come

Each refund a person is given is treated as coming from the total amount of their deposits in the order in which they made the deposits.

Origin:	EI 10(1); EI 15; EI 16(1).
Defined terms:	amount, deposit, person.

Transfers

EN 61 Transfer of deposit

Transfer from adverse event to main income equalisation account

(1) A deposit that is in a person's adverse event income equalisation account on the day 1 calendar year after the date on which the deposit was made must be transferred to their main income equalisation account as soon as practicable.

Date of deposit in main income equalisation account

(2) The date on which a transferred deposit is treated as having been deposited in the person's main income equalisation account is as follows:

(a) the date on which it was transferred, for the purpose of computing interest payable under section EN 6:

(b) the date on which it was deposited in the adverse event income equalisation account, for any other purpose.

Deduction not allowed

(3) A transferred deposit is not an amount for which a deduction is allowed under section DQ 1 (Main income equalisation scheme).

Ceasing of deposit in adverse event income equalisation account

(4) A transferred deposit ceases to be a deposit in the person's adverse event income equalisation account.

Origin:	(1) EI 14(3). (2) EI 14(3). (3) EI 14(3). (4) EI 14(4).
Defined terms:	adverse event income equalisation account, amount, deduction, deposit, interest, main income equalisation account, pay, person.

Definitions used in adverse event income equalisation scheme

EN 62 Definitions used in adverse event income equalisation scheme

In the adverse event income equalisation scheme,—

adverse event deposit means a payment made to the Commissioner under section EN 39 (1)

adverse event income equalisation account, in relation to a person, means the account that the Commissioner keeps in the person's name under section EN 40

adverse event maximum deposit has the meaning given to it by section EN 63

date the deposit ceases means—

(a) the date on which the refund is calculated, when section EN 43 or section EN 46 applies:

(b) the date of the person's retirement, when section EN 48 applies:

(c) the date of the person's death, when section EN 50 applies:

(d) the date on which the Commissioner receives notice of the adjudication, when section EN 54 applies:

(e) the date on which the Commissioner receives notice of the liquidation, when section EN 56 applies:

(f) the date on which the Commissioner transfers the deposit, when section EN 61 (1) applies

deposit—

(a) means an adverse event deposit; and

(b) includes, for the purposes of section EN 41 (2) and (3) and sections EN 45 to EN 61, interest that is added to an adverse event deposit under section EN 41 (4)

self-assessed adverse event has the meaning given to it by section EN 64

specified period, in relation to a person's income year, means the shorter of—

(a) the period of 6 months after the end of the income year; and

(b) the period from the end of the income year to the date 1 month after the date by which the person must file their return of income for the income year.

Origin:	OB 1 'adverse event income equalisation account'.
Defined terms:	adverse event deposit, adverse event income equalisation account, adverse event income equalisation scheme, adverse event maximum deposit, Commissioner, date the deposit ceases, deposit, income year, liquidation, person, return of income, self-assessed adverse event, specified period.

EN 63 'Adverse event maximum deposit': definition referred to in section EN 62

Meaning

(1) **Adverse event maximum deposit** means the maximum deposit that this section says a person may make to their adverse event income equalisation account for an income year.

Maximum deposit

(2) The maximum deposit a person may make is an amount equal to the net income that the person would have for the income year if, because of the self-assessed adverse event,—

(a) the only income derived by the person in the income year were income from their selling the livestock; and

(b) the only deduction allowed to the person in the income year were the cost of the livestock sold.

Cost of livestock sold: matters excluded

(3) The cost of the livestock sold is an amount determined under subsection (4) or subsection (5)—

(a) without applying any provision allocating income derived or expenditure incurred to an income year other than the income year in which the income was in fact derived or the expenditure was in fact incurred; but

(b) applying section DQ 1 (Main income equalisation scheme), sections EN 7 to EN 33, and sections FF 9 to FF 11.

Cost of livestock sold: person having livestock of class sold at end of previous income year

(4) This subsection applies when, at the end of the income year before the income year in which the livestock is sold, the person had livestock of the class sold in which the livestock would have been included at the end of the income year in which it is sold, if it had not been sold. Under this subsection, the cost of livestock sold is determined using the previous income year's closing value for the class of livestock in which the livestock sold would have been included.

Cost of livestock sold: other cases

(5) This subsection applies when subsection (4) does not. Under this subsection, the cost of livestock sold is calculated using the formula—

$$\frac{\text{number at start} \;\; x \;\; \text{value} \; + \; \text{number bought} \;\; x \;\; \text{price}}{\text{number at start} \; + \; \text{number bought.}}$$

Definition of items in formula

(6) In the formula,—

(a) **number at start** means the number of livestock of the class sold that the person has at the start of the income year in which the livestock is sold:

(b) **number bought** means the number of livestock of the class sold that the person buys in the income year in which the livestock is sold, before the sale:

(c) **price** means the average purchase price of the number bought:

(d) **value** means the opening value of the number at the start, determined without applying section ED 11 (2) (Valuation under herd scheme).

Origin:	(1) OB 1 'maximum deposit' (b). (2) OB 1 'maximum deposit' (b). (3) OB 1 'maximum deposit' (b). (4) OB 1 'maximum deposit' (b).

	(5) OB 1 'maximum deposit' (b).
	(6) OB 1 'maximum deposit' (b).
Defined terms:	adverse event income equalisation account, adverse event maximum deposit, amount, closing value, deduction, deposit, derived, income, income year, net income, person, self-assessed adverse event.

EN 64 'Self-assessed adverse event': definition referred to in section EN 62

Meaning

(1) Self-assessed adverse event means an event described in subsections (2) to (4).

Nature of event

(2) The event is one of the following:

(a) drought, fire, flood, or some other natural event:

(b) sickness or disease among livestock.

Effect of event

(3) The event materially affects the person's farming or agricultural business.

Event described to Commissioner

(4) The event, and its effect on the person's business, is described by the person in a statutory declaration given to the Commissioner.

Origin:	(1) OB 1 'self-assessed adverse event'.
	(2) OB 1 'self-assessed adverse event'.
	(3) OB 1 'self-assessed adverse event'.
	(4) OB 1 'self-assessed adverse event'.
Defined terms:	business, Commissioner, person, self-assessed adverse event.

Thinning operations income equalisation scheme

Application

EN 65 Persons to whom thinning operations income equalisation scheme applies

Person described

(1) The thinning operations income equalisation scheme applies to a company that, in an income year,—

(a) carries on a forestry business on land in New Zealand; and

(b) derives income from carrying out thinning operations on the land.

Definition of 'person' for thinning operations income equalisation scheme

(2) In the thinning operations income equalisation scheme, **person** means a person described in subsection (1).

Origin:	(1) EI 17(1). (2) EI 17(1).
Defined terms:	business, company, derived, income, income year, New Zealand, person, thinning operations, thinning operations income equalisation scheme.

Deposits and accounts

EN 66 Thinning operations deposit

Deposit for thinning operations

(1) A person may make a payment to the Commissioner for entry in their thinning operations income equalisation account for an income year in which they derive income from carrying out thinning operations.

Upper limit of deposit

(2) A person must not make, for an income year, deposits that in total are more than their thinning operations maximum deposit for the income year.

Lower limit of deposit

(3) A person must not make, for an income year, a deposit that is less than the lesser of—

(a) $200; and

(b) the difference between the total of all the deposits the person has previously made for the income year and their thinning operations maximum deposit for the income year.

Time of making deposit

(4) A person makes a deposit for an income year by—

(a) making the deposit during the income year; or

(b) doing both the following:

(i) making the deposit during the specified period for the income year:

(ii) at the time of making it, giving the Commissioner notice that the deposit is for the income year; or

(c) doing both the following:

(i) making the deposit within a time that is after the end of the specified period for the income year but that is allowed by the Commissioner in a case or class of cases:

(ii) at the time of making it, giving the Commissioner notice that the deposit is for the income year.

Limit on making deposit

(5) If a refund has been made to a person for an income year under section EN 73 or section EN 75, the person may later make a deposit for the income year only if the Commissioner is satisfied, before the deposit is made, that all the refund has been used to expand or develop the person's business.

Origin:	(1) EI 1(1), (3); EI 17(1), (2). (2) EI 1(1), (3); EI 17(2). (3) EI 1(1), (3); EI 17(2). (4) EI 1(1), (3); EI 17(2). (5) EI 1(1), (3); EI 17(2).
Defined terms:	business, Commissioner, deposit, derived, income, income year, notice, person, specified period, thinning operations, thinning operations deposit, thinning operations income equalisation account, thinning operations maximum deposit.

EN 67 Thinning operations income equalisation account

Person's account

(1) The Commissioner must keep a thinning operations income equalisation account in the name of every person that makes a deposit with the Commissioner.

Deposits in accounts

(2) Every deposit a person makes with the Commissioner must be entered in their thinning operations income equalisation account.

Amounts in accounts

(3) The only amounts that may be entered in a person's thinning operations income equalisation account are—

(a) deposits made by the person with the Commissioner; and

(b) interest paid under section EN 68.

Amounts not available to others

(4) Amounts entered in a person's thinning operations income equalisation account must not, while they are in the account,—

(a) be assigned or charged in any way; or

(b) pass into the custody or control of any other person by operation of law, except when the person has been put into liquidation; or

(c) be assets for the payment of the person's debts or liabilities, except when the person has been put into liquidation.

Amounts available only for refunds

(5) The only payments that may be made from a person's thinning operations income equalisation account are refunds under any of sections EN 70, EN 73, EN 75, and EN 77.

Origin:	(1) EI 1(2), (5); EI 17(2), (3). (2) EI 1(2), (5); EI 17(2), (3). (3) EI 1(2), (5); EI 17(2), (3). (4) EI 1(2), (5); EI 17(2), (3). (5) EI 1(2), (5); EI 17(2), (3).
Defined terms:	amount, Commissioner, deposit, interest, liquidation, pay, person, thinning operations income equalisation account.

Interest

EN 68 Interest on deposits in thinning operations income equalisation account

No interest payable

(1) No interest is payable on a deposit in a thinning operations income equalisation account that is refunded within 12 months of the date of deposit.

Interest payable

(2) Interest is payable on every other deposit in a thinning operations income equalisation account.

Period

(3) Interest is computed with daily rests from the date of acknowledgment of the receipt of the deposit until the date the deposit ceases.

Date to which interest accrues

(4) Interest on a deposit accrues until the earlier of—

(a) 31 March in each year; and

(b) the date the deposit ceases.

Added to deposit

(5) Accrued interest on a deposit is added to the deposit.

Rate

(6) The interest rate is 3% annually.

Origin:	(1) EI 2; EI 17(2). (2) EI 2; EI 17(2). (3) EI 2; EI 17(2). (4) EI 2; EI 17(2). (5) EI 2; EI 17(2). (6) EI 2; EI 17(2).
Defined terms:	date the deposit ceases, deposit, interest, pay, thinning operations income equalisation account.

Deductions

EN 69 Deposit allowed as deduction

When this section applies

(1) This section applies when a person is allowed a deduction under section DQ 3 (Thinning operations income equalisation scheme).

Amount of deduction

(2) The amount of the deduction is the lesser of—

(a) the total of the person's deposits for the income year; and

(b) their thinning operations maximum deposit for the income year.

Allocation

(3) The person is allowed the deduction for the income year.

Origin:	(1) EI 3; EI 17(2). (2) EI 3; EI 17(2). (3) EI 3; EI 17(2).
Defined terms:	amount, deduction, deposit, income year, person, thinning operations maximum deposit.

Refunds: automatic

EN 70 Refund of excess deposit

When this section applies

(1) This section applies when a person's deposits for an income year are more than their thinning operations maximum deposit for the income year.

Refund

(2) The Commissioner must refund the excess to the person as soon as practicable after it is calculated.

Origin:	(1) EI 1(4); EI 17(2). (2) EI 1(4); EI 17(2).

Defined terms:	Commissioner, deposit, income year, person, thinning operations maximum deposit.

EN 71 Income does not include excess deposit

A refund under section EN 70 is excluded income under section CX 44 (Income equalisation schemes).

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

Refunds: on application

EN 72 Application for refund by person or liquidator

Who may apply

(1) The following may apply to the Commissioner for a refund of some or all of the amount in a person's thinning operations income equalisation account:

(a) the person may apply under section EN 73 or section EN 75:

(b) the liquidator appointed for the person may apply under section EN 77.

Application

(2) An application for a refund must—

(a) be in writing; and

(b) state the grounds on which it is made; and

(c) state the amount applied for.

Origin:	(1) EI 4(1), (2); EI 17(2).
	(2) EI 4(1), (2); EI 17(2).
Defined terms:	amount, Commissioner, liquidation, person, thinning operations income equalisation account.

EN 73 Refund on request

When this section applies

(1) This section applies when a person wants a refund of some or all of the amount in the person's thinning operations income equalisation account, and neither section EN 75 nor section EN 77 applies.

Refund

(2) The Commissioner must refund to the person the amount applied for, to the extent to which it can be made up of one or more deposits that have been in the person's thinning operations income equalisation account for at least 12 months before the date of the application.

Origin:	(1) EI 4(1); EI 17(2). (2) EI 4(1); EI 17(2).
Defined terms:	amount, Commissioner, deposit, person, thinning operations income equalisation account.

EN 74 Income when refund given on request

Year of income

(1) A refund under section EN 73 is income derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

(2) However, subsection (3) applies instead of subsection (1) if—

(a) the Commissioner receives the application for a refund in the specified period for an income year or, if the Commissioner allows in a case or class of cases, within a longer period; and

(b) the person chooses in the application that the refund is to be income in the income year to which the specified period or the longer period relates.

Different year of income

(3) The refund is income in the income year to which the specified period or the longer period relates.

Origin:	(1) EI 4(5); EI 17(2). (2) EI 4(5); EI 17(2). (3) EI 4(5); EI 17(2).
Defined terms:	Commissioner, derived, income, income year, person, specified period.

EN 75 Refund for development or recovery

Refund for development: application of subsection (2)

(1) Subsection (2) applies when a person wants a refund of some or all of the amount in their thinning operations income equalisation account for the purpose of enabling them to undertake, immediately after the refund is given, planned development or maintenance work for their forestry business.

Refund

(2) If the Commissioner is satisfied that the person will use the refund for the purpose, the Commissioner must refund to them the amount applied for, to the extent to which it can be made up of one or more deposits that have been in the person's thinning operations income equalisation account for at least 6 months before the date of the application.

Refund for recovery: application of subsection (4)

(3) Subsection (4) applies when a person wants a refund of some or all of the amount in their thinning operations income equalisation account for either or both of the following purposes:

(a) to avoid them suffering serious hardship:

(b) to do anything else that the Commissioner determines, in a case or class of cases, is a purpose for which a refund should be given.

Refund

(4) If the Commissioner is satisfied that the person will use the refund for either or both of the purposes, the Commissioner must refund to them the amount applied for, regardless of the length of time it has been in the account.

Origin:	(1) EI 4(3), (4); EI 17(2). (2) EI 4(3), (4); EI 17(2). (3) EI 4(3), (4); EI 17(2). (4) EI 4(3), (4); EI 17(2).
Defined terms:	amount, business, Commissioner, deposit, person, thinning operations income equalisation account.

EN 76 Income when refund given for development or recovery

Year of income

(1) A refund under section EN 75 is income derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

(2) However, subsection (3) applies instead of subsection (1) if—

(a) the Commissioner receives the application for a refund in the specified period for an income year or, if the Commissioner allows in a case or class of cases, within a longer period; and

(b) the person chooses in the application that the refund is to be income in the income year to which the specified period or the longer period relates.

Different year of income

(3) The refund is income in the income year to which the specified period or the longer period relates.

Origin:	(1) EI 4(5); EI 17(2). (2) EI 4(5); EI 17(2). (3) EI 4(5); EI 17(2).
Defined terms:	Commissioner, derived, income, income year, person, specified period.

EN 77 Refund on liquidation

When this section applies

(1) This section applies when a person—

(a) has a thinning operations income equalisation account; and

(b) is put into liquidation.

Refund

(2) The Commissioner must refund to the liquidator appointed for the person the amount in the person's thinning operations income equalisation account on the date on which the Commissioner receives notice of the liquidation, regardless of the length of time it has been in the account.

Origin:	(1) EI 8(1); EI 17(2). (2) EI 8(1); EI 17(2).
Defined terms:	amount, Commissioner, liquidation, person, thinning operations income equalisation account.

EN 78 Income when refund given on liquidation

A refund under section EN 77 is income derived by the person immediately before the liquidation starts.

Origin:	EI 8(2); EI 17(2).
Defined terms:	derived, income, liquidation, person.

Refunds: general provisions, and rebate of income tax

EN 79 Sections of main income equalisation scheme that apply to thinning operations income equalisation scheme

Sections EN 28 to EN 33 apply, with the necessary amendments, to the thinning operations income equalisation scheme.

Origin:	EI 17(2).
Defined terms:	main income equalisation scheme, thinning operations income equalisation scheme.

Definitions used in thinning operations income equalisation scheme

EN 80 Definitions used in thinning operations income equalisation scheme

In the thinning operations income equalisation scheme,—

date the deposit ceases means—

(a) the date on which the refund is calculated, when any of sections EN 70, EN 73, and EN 75 applies:

(b) the date on which the Commissioner receives notice of the liquidation, when section EN 77 applies

deposit—

(a) means a thinning operations deposit; and

(b) includes, for the purposes of section EN 68 (2) to (4) and sections EN 72 to EN 79, interest that is added to a thinning operations deposit under section EN 68 (5)

specified period, in relation to a person's income year, means the shorter of—

(a) the period of 6 months after the end of the income year; and

(b) the period from the end of the income year to the date 1 month after the date by which the person must file their return of income for the income year

thinning operations means operations in which some trees in an immature stand of trees are felled for the purpose of improving the growth and form of the remaining trees and not for the purpose of permanently breaking the canopy

thinning operations deposit means a payment made to the Commissioner under section EN 66 (1)

thinning operations income equalisation account, in relation to a person, means the account that the Commissioner keeps in the person's name under section EN 67

thinning operations maximum deposit has the meaning given to it by section EN 81.

Origin:	EI 17(4); OB 1 'specified period' (a).
Defined terms:	Commissioner, date the deposit ceases, income year, interest, liquidation, person, return of income, specified period, thinning operations deposit, thinning operations income equalisation account, thinning operations income equalisation scheme, thinning operations maximum deposit.

EN 81 'Thinning operations maximum deposit': definition referred to in section EN 80

Meaning

(1) **Thinning operations maximum deposit** means the maximum deposit that this section says a person may make to their thinning operations income equalisation account for an income year.

Maximum deposit

(2) The maximum deposit that a person may make is an amount equal to the income derived by them during the income year from carrying out thinning operations on the land on which they carry on their forestry business.

Matters excluded

(3) In subsection (2), **amount** means an amount calculated without applying—

(a) any provision allocating income derived or expenditure incurred to an income year other than the income year in which the income was in fact derived or the expenditure was in fact incurred; or

(b) any provision of any of the income equalisation schemes referred to in section EN 1 (2).

Origin:	(1) OB 1 'maximum deposit' (a). (2) OB 1 'maximum deposit' (a). (3) OB 1 'maximum deposit' (a).
Defined terms:	amount, business, deposit, derived, income, income year, person, thinning operations, thinning operations income equalisation account, thinning operations maximum deposit.

EZ – Terminating provisions

Index

Index continued

Foreign investment fund rules

EZ 1 FIF interests held on 1 April 1993

When this section applies

(1) This section applies when—

(a) a person held an attributing interest in a FIF at all times from 8pm (New Zealand Standard Time) on 2 July 1992 until 1 April 1993; and

(b) used the comparative value method or deemed rate of return method to calculate their FIF income or loss from the interest for the period starting on 1 April 1993.

Treated as having bought for market value

(2) The person is treated as having bought it on 1 April 1993 for an amount equal to its market value at the time, unless the person chooses not to apply this section by completing accordingly their return of income.

Origin:	(1) CG 23(1). (2) CG 23(1).
Defined terms:	amount, attributing interest, comparative value method, deemed rate of return method, FIF, FIF income, loss, market value, person, return of income.
Comment:	The rest of current section CG 23 (1) seems to be spent.

Petroleum mining

EZ 2 Development expenditure from 1 October 1990 to 15 December 1991

Expenditure that is allowed as a deduction under section DZ 5 (Petroleum mining: development expenditure from 1 October 1990 to 15 December 1991) must be deducted in equal amounts over the 10 years starting with the later of—

(a) the income year in which commercial production starts; and

(b) the income year in which the expenditure is incurred.

Origin:	DM 1(3).
Defined terms:	amount, commercial production, deduction, income year.

Accident insurance

EZ 3 Base premium for 1998-99 premium year under Accident Insurance Act 1998

Discount payment date

(1) An amount of base premium for the 1998-99 premium year that is paid on or before the discount payment date is treated as expenditure in the income year in which the discount payment date falls if the discount payment date is before the date on the invoice that specifies when payment is due. This subsection overrides section EL 3 (1) (ACC levies and premiums).

Monthly instalment plan

(2) Interest payable on a base premium for the 1998-99 premium year under a monthly instalment plan is treated as being payable on the date that the interest is applied under regulation 8 of the Accident Insurance (Payment of Base Premiums) Regulations 1999.

Definitions for this section

(3) In this section, **base premium for the 1998-99 premium year**, **discount payment date**, and **monthly instalment plan** have the meanings given to them in the Accident Insurance (Payment of Base Premiums) Regulations 1999.

Origin:	(1) ED 1A(1A). (2) ED 6A(1). (3) ED 1A(5); ED 6A(2).
Defined terms:	amount, base premium for the 1998-99 premium year, discount payment date, income year, interest, monthly instalment plan.

Depreciation

EZ 4 Pool method for items accounted for by globo method for 1992-93 income year

If a person chooses the pool method for an item of property of a kind described in section EF 57 (3)(c) (Poolable property), they must also choose to treat as a single pool all such items of property they still own that they accounted for at the end of their 1992-93 income year within the same globo account.

Origin:	EG 3(5).
Defined terms:	income year, person, pool, pool method.
Comment:	The current approach of including earlier depreciation regimes in the legislation is continued. This is done to aid the reader, as a sizeable number of assets that were acquired before 1 April 1994 are likely still to be available for use. However, the earlier regimes are included among the terminating sections in this subpart. Since current section EZ 11, now draft section EZ 7, deals with property acquired on or before 23 September 1997, it seems logical to include, along with it, sections dealing with property acquired at even earlier times.

EZ 5 Pool: items accounted for by globo method for 1992-93 income year

Limit on amount of income

(1) If a person’s pool consists solely of items of depreciable property accounted for at the end of the person’s 1992-93 income year using, with the Commissioner’s permission, the globo accounting method, the amount of income under section EF 22 (5)(a) (Cases affecting pool) is no more than the amount calculated using the formula—

$$\text{depreciation allowed} \quad - \quad \text{income.}$$

Definition of items in formula

(2) In the formula,—

(a) **depreciation allowed** is the total of deductions for amounts of depreciation loss that the person has been allowed under this Act and depreciation deductions that the person has been allowed under the Income Tax Act 1976, in all previous income years for all items in the pool, including amounts allowed before the person’s 1993-94 income year under the globo accounting method:

(b) **income** is all amounts of income under section EF 22 (5)(a) (Cases affecting pool) in all previous income years.

Origin:	(1) EG 11(4A). (2) EG 11(4A).

Defined terms:	amount, Commissioner, deduction, depreciable property, depreciation loss, income, income year, person, pool.

EZ 6 Depreciation recovery income and depreciation losses for part business use in or before 1992-93 income year

For the purposes of section EF 41 (1)(b) (Depreciation recovery income when lost or stolen items recovered), the item is an item of property to which one or more of the following applies:

(a) the item is, at any time during the period the person owns it, subject to the section EG 2 (1)(d) or (e) that was in this Act immediately before the section was repealed by the Income Tax Amendment Act 2002:

(b) the item is, at any time during the period the person owns it, subject to section 108A (1)(d) or (e) of the Income Tax Act 1976:

(c) the item was, in the 1992-93 income year or a previous income year, an item that the person did not use wholly in deriving counted income or carrying on a business for the purpose of deriving counted income and for which, consequently, the person was allowed a smaller depreciation deduction under section 108 of the Income Tax Act 1976 than they would have been allowed if they had used the item wholly for one of those purposes.

Origin:	EG 19(4).
Defined terms:	business, counted income, derived, income year, person.
Comment:	The reference in paragraph (a) to the Income Tax Amendment Act 2002 is a reference to the Act that will implement the rewrite of Parts A to E.

EZ 7 Depreciation loss for item acquired from associated person on or before 23 September 1997

When this section applies

(1) This section applies when, on or before 23 September 1997, a person (person A) acquires an item from an associated person entitled to claim a deduction for an amount of depreciation loss for it. This subsection is overridden by subsection (2).

When this section does not apply

(2) This section does not apply—

(a) if the item is acquired under a matrimonial agreement in circumstances to which section FF 16 (1) (Depreciable property) applies; or

(b) if the item is listed in schedule 17 and the price that person A pays is income of the associated person; or

(c) if the item is not listed in schedule 17 and the Commissioner is of the opinion that the circumstances are such that a person should be allowed a deduction for an amount of depreciation loss for the item based on the actual price or other consideration given for it.

No greater depreciation loss

(3) Whether or not the associated person has in fact been allowed a deduction for an amount of depreciation loss, person A does not have a greater amount of depreciation loss for the item than that for which the associated person would have been able to claim a deduction if the associated person had kept the item.

Depreciation loss dealt with under section EF 40

(4) If an amount of depreciation loss that the associated person has has been dealt with under section EF 40 (Effect of disposal or event), person A has an amount of depreciation loss for the item based on the total of—

(a) all amounts dealt with under section EF 40 (Effect of disposal or event); and

(b) the depreciated value of the item immediately before person A acquired it.

When subsection (6) applies and does not apply

(5) Subsection (6) applies when, on or before 23 September 1997, the holder of management rights created under the Radiocommunications Act 1989 grants a licence right under that Act to an associated person. However, it does not apply when the holder of management rights is the Crown acting by and through the chief executive of the Ministry of Economic Development.

Licence right price

(6) The cost price of the licence right is treated as being zero for the purposes of subpart EF (Depreciation).

Origin:	(1) EZ 11(1), (4). (2) EZ 11(2). (3) EZ 11(1), (4). (4) EZ 11(1), (4). (5) EZ 11(3), (4). (6) EZ 11(3), (4).
Defined terms:	amount, associated person, Commissioner, depreciation loss, income, matrimonial agreement, person.
Comment:	Current section FF 16 appears in a rewritten form in the consequential amendments in volume 3.

EZ 8 Annual rate for item acquired on or after 1 April 1993 and before end of person's 1994-95 income year

What this section is about

(1) This section is about the annual rate that applies to an item of depreciable property that a person acquires before the end of their 1994-95 income year (not including fixed life intangible property or excluded depreciable property, for which rates are set in section EF 27 (Annual rate for fixed life intangible property) and section EZ 10 respectively).

Rate

(2) The rate is—

(a) the item's economic rate; or

(b) the pre-1993 depreciation rate described in section EZ 6**,** if the person chooses it under that section.

Origin:	(1) EG 5(1). (2) EG 5(1).
Defined terms:	annual rate, depreciable property, economic rate, excluded depreciable property, fixed life intangible property, income year, person.

EZ 9 Pre-1993 depreciation rate

Scope of election

(1) A person may choose the pre-1993 depreciation rate for all items, or any item, that they acquire before the end of their 1994-95 income year.

How election made

(2) The election is made by applying the pre-1993 depreciation rate for the item to the item in the person's return of income for the income year for which the election is made.

Election unchangeable

(3) The election must not be changed for the income year for which it is made.

Moving from diminishing value to straight-line and vice versa

(4) A person who chooses the pre-1993 depreciation rate has the following choices:

(a) if the rate is a diminishing value rate, the person may instead use the straight-line rate by—

(i) rounding the diminishing value rate to the nearest rate specified in schedule 10, column 1; and

(ii) taking the equivalent straight-line rate specified in column 2 of the schedule; or

(b) if the rate is a straight-line rate, the person may instead use the diminishing value rate by—
  (i) rounding the straight-line rate to the nearest rate specified in schedule 10, column 2; and
  (ii) taking the equivalent diminishing value rate specified in column 1 of the schedule.

Pre-1993 depreciation rate

(5) The pre-1993 depreciation rate is the rate calculated using the formula—

section 108 rate + section 108A rate + section 113A rate.

Definition of items in formula

(6) The items in the formula are defined in subsections (7) to (9).

Section 108 rate

(7) **Section 108 rate** means the rate of depreciation that the Commissioner allowed persons with a standard balance date to use for the 1992-93 tax year to calculate a depreciation deduction under section 108 of the Income Tax Act 1976, as in force for the 1992-93 tax year, for property of the same kind as the item.

Section 108A rate

(8) **Section 108A rate** means the additional deduction under section 108A of the Income Tax Act 1976, as in force for the 1992-93 tax year, for which the item was eligible for the 1992-93 tax year.

Section 113A rate

(9) **Section 113A rate** means the supplementary deduction under section 113A of the Income Tax Act 1976 for which the item was eligible for the 1992-93 tax year.

Origin:	(1) EG 5(2). (2) EG 5(2). (3) EG 5(2). (4) EG 5(4). (5) EG 5(3). (6) EG 5(3). (7) EG 5(3). (8) EG 5(3). (9) EG 5(3).
Defined terms:	Commissioner, diminishing value rate, income year, return of income, person, standard balance date, straight-line rate, tax year.

EZ 10 Annual rate for excluded depreciable property

What this section is about

(1) This section is about the annual rate that applies to an item of excluded depreciable property.

Rate

(2) The rate is the section 108 rate, without adding the section 108A rate or the other sections rate. The rates referred to in this subsection are described in subsections (3) to (5).

Section 108 rate

(3) **Section 108 rate** means the rate of depreciation that the Commissioner allowed persons with a standard balance date to use for the 1992-93 tax year to calculate a depreciation deduction under section 108 of the Income Tax Act 1976, as in force for the 1992-93 tax year, for property of the same kind as the item.

Section 108A rate

(4) **Section 108A rate** means the additional deduction under section 108A of the Income Tax Act 1976, as in force for the 1992-93 tax year, for which the item was eligible for the 1992-93 tax year.

Other sections rate

(5) **Other sections rate** means an additional or supplementary deduction under section 113A or any other provision of the Income Tax Act 1976 for which the item was eligible for the 1992-93 tax year.

Depreciation loss under any other provision

(6) If a person has an additional amount of depreciation loss for an income year for an item of excluded depreciable property under section EZ 11 or section EZ 12 or any other provision of this Act,—

(a) the rate applicable to the item under subsection (2) may be adjusted to incorporate the additional amount of depreciation loss in a manner prescribed or allowed by the Commissioner; and

(b) when an adjusted rate is applied to the item, the person does not have a separate amount of depreciation loss for the item under section EZ 11 or section EZ 12 or the other provision.

Changing rate

(7) A person applying the rate in subsection (2) has the following choices:

(a) if the rate is a diminishing value rate, the person may instead use the straight-line rate by—

(i) rounding the diminishing value rate to the nearest rate specified in schedule 10, column 1; and

(ii) taking the equivalent straight-line rate specified in column 2 of the schedule; or

(b) if the rate is a straight-line rate, the person may instead use the diminishing value rate by—

(i) rounding the straight-line rate to the nearest rate specified in schedule 10, column 2; and

(ii) taking the equivalent diminishing value rate specified in column 1 of the schedule.

Origin:	(1) EG 9(1). (2) EG 9(1). (3) EG 9(1). (4) EG 9(1). (5) EG 9(1). (6) EG 9(2). (7) EG 9(3).
Defined terms:	annual rate, Commissioner, diminishing value rate, excluded depreciable property, income year, person, prescribed, standard balance date, straight-line rate, tax year.

EZ 11 Additional depreciation loss for excluded depreciable property that is plant or machinery

When this section applies

(1) This section applies when a person carrying on a business in New Zealand incurs, wholly for the purpose of the business, capital expenditure in acquiring, installing, or extending plant or machinery that—

(a) is excluded depreciable property; and

(b) is—

(i) plant or machinery that is normally in operation for an average of at least 16 hours each working day and is not normally in operation for 24 hours each working day; or

(ii) plant or machinery that is normally in operation for 24 hours each working day.

This subsection is overridden by subsection (2).

Plant or machinery to which section does not apply

(2) This section does not apply to—

(a) aluminium smelting plant or machinery:

(b) motorcars:

(c) petroleum refining plant or machinery:

(d) ships, aircraft, or hovercraft:

(e) plant or machinery for which a fixed rate deduction was not allowed under section 108 of the Income Tax Act 1976 for the 1992-93 income year or a previous relevant income year:

(f) plant or machinery for which the Commissioner did not prescribe a differential rate for more than one shift operation when determining under section 108 of the Income Tax Act 1976 the rate of depreciation for the 1992-93 income year or a previous relevant income year.

Additional depreciation loss

(3) The person has an amount of depreciation loss for the plant or machinery under this section in addition to any amounts of depreciation loss that they have for the plant or machinery under subpart EF (Depreciation).

Relevant income years

(4) The person has the additional amount of depreciation loss in the first, second, third, fourth, and fifth income years in which the plant or machinery is used in deriving counted income.

Rate

(5) The rate of the additional amount of depreciation loss is,—

(a) for plant or machinery described in subsection (1)(b)(i), 3% of the diminishing value of the plant or machinery in each income year:

(b) for plant or machinery described in subsection (1)(b)(ii), 6% of the diminishing value of the plant or machinery in each income year.

Origin:	(1) EG 18(1), (3). (2) EG 18(2), (6). (3) EG 18(4). (4) EG 18(4). (5) EG 18(4).
Defined terms:	business, Commissioner, counted income, depreciation loss, derived, excluded depreciable property, income year, motorcar, New Zealand, person, petroleum, working day.

EZ 12 Additional depreciation loss for acquisitions or qualifying improvements between 16 December 1991 and 1 April 1994

When this section applies

(1) This section applies when a person incurs expenditure of the kind described in subsection (2) in—

(a) the acquisition or installation of a qualifying item; or

(b) the making of a qualifying improvement to an item the person owns.

Expenditure described

(2) The expenditure is expenditure of a capital nature, excluding any amount of input tax applying to the supply of the qualifying item or qualifying improvement to the person.

Additional depreciation loss

(3) The person has an amount of depreciation loss for the item under this section in addition to any amount of depreciation loss they have for the item under subpart EF (Depreciation) and section EZ 11. This subsection is overridden by section EF 40 (2) (Effect of disposal or event).

Amount

(4) The additional amount of depreciation loss for an income year is 25% of the lesser of—

(a) the amount of depreciation loss that the person has under subpart EF (Depreciation) and section EZ 11 for the item and for the income year; and

(b) the amount of depreciation loss that the person would have had under subpart EF (Depreciation) and section EZ 11 for the item and the income year had the item's value been equal to its qualifying capital value.

Origin:	(1) EG 15(1). (2) ED 4(5). (3) EG 15(1). (4) EG 15(2).
Defined terms:	amount, depreciation loss, income year, person, qualifying capital value, qualifying improvement, qualifying item.

EZ 13 Section EZ 12 depreciation loss when items transferred between companies in wholly-owned group before 1 April 1993

When this section applies

(1) This section applies when, before 1 April 1993, a company in a wholly-owned group of companies disposes of a qualifying item, or an item to which the company has made a qualifying improvement, to another company in the same wholly-owned group.

Transferee has depreciation loss

(2) The transferee company has an amount of depreciation loss under section EZ 12 for the period after the disposal as if the transferee company were the same person as the transferor company.

Amount

(3) The amount of depreciation loss that the transferor company has under section EZ 12 for the item for the income year in which the disposal occurs must be subtracted when the amount of depreciation loss that the transferee company has under section EZ 12 for the income year is worked out.

How definitions affected

(4) This section applies despite any limitations in the definitions of **new item**, **New Zealand-new item**, **qualifying capital value**, **qualifying improvement**, and **qualifying item** as to the identity of the person for whom an item or improvement will be treated as a qualifying item or qualifying improvement.

Origin:	(1) EG 15(3). (2) EG 15(3). (3) EG 15(3). (4) EG 15(3).
Defined terms:	amount, company, depreciation loss, income year, new item, New Zealand-new item, person, qualifying capital value, qualifying improvement, qualifying item, wholly-owned group of companies.

EZ 14 Section EZ 12 depreciation loss when person previously exempt from tax acquires item

When this section applies

(1) This section applies when a person who has derived nothing but exempt income—

(a) starts in an income year to derive income that is not exempt income; and

(b) would have had an amount of depreciation loss under section EZ 12 for an item and an income year if the person had been deriving income that was not exempt income at the time they acquired the item to which section EZ 12 applies or made a qualifying improvement to the item to which section EZ 12 applies.

How qualifying capital value determined

(2) The item's qualifying capital value is determined as if the person had had an amount of depreciation loss for the period during which they derived nothing but exempt income.

Origin:	(1) EG 15(4). (2) EG 15(4).
Defined terms:	depreciation loss, derived, exempt income, income, income year, person, qualifying capital value, qualifying improvement.

EZ 15 Adjusted tax value 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.

Adjusted tax value

(2) The adjusted tax value of the item is its cost to the person minus all deductions that the person was allowed for it.

Origin:	(1) EG 19(9), (10)(a). (2) EG 19(10)(a).
Defined terms:	adjusted tax value, deduction, person.

EZ 16 New item

Meaning

(1) **New item** means an item of property that a person owns to which subsections (2) to (4) apply and to which subsection (5) does not apply.

Acquisition date

(2) The item is—

(a) acquired by the person in the period starting on 16 December 1991 and ending with the close of 31 March 1993, other than under a binding contract that they entered into before 16 December 1991; or

(b) acquired by the person in the period starting on 1 April 1993 and ending with the close of 31 March 1994, under a binding contract that they entered into in the period starting on 16 December 1991 and ending with the close of 31 March 1993; or

(c) one to which all the following apply:

(i) it was acquired by the person before 16 December 1991 as trading stock; and

(ii) it was used by the person as a capital item for the first time in the period starting on 16 December 1991 and ending with the close of 31 March 1993; and

(iii) it qualified for a depreciation deduction under section 108 of the Income Tax Act 1976 in the period starting on 16 December 1991 and ending with the close of 31 March 1993.

Used before 1 April 1994

(3) The item is used by the person before 1 April 1994.

Not used by anyone previously

(4) The item is—

(a) not acquired by any other person before the date on which the person acquired it; and

(b) not used by any other person before the date on which the person acquired it; and

(c) not held for use by any other person before the date on which the person acquired it; and

(d) not an item or part of an item that qualified for a depreciation deduction under the Income Tax Act 1976 for a period before the date on which the person acquired it.

Exclusion

(5) A constructed item that a person owns is not a new item if—

(a) its construction started before 16 December 1991 (but this paragraph does not apply to the extent to which the item is trading stock to which subsection (2)(c) applies); or

(b) its construction started on or after 16 December 1991 under a binding contract that the person entered into before 16 December 1991; or

(c) its construction was not completed before 1 April 1994; or

(d) the item was not first used by the person before 1 April 1994.

Origin:	(1) OB 1 ‘new asset’.
	(2) OB 1 ‘new asset’.
	(3) OB 1 ‘new asset’.
	(4) OB 1 ‘new asset’.
	(5) OB 1 ‘new asset’.
Defined terms:	new item, person, trading stock.

EZ 17 New Zealand-new item

Meaning

(1) **New Zealand-new item** means an item of property that a person owns to which subsections (2) to (5) apply.

Not new

(2) The item is not a new item.

Date of acquisition

(3) The item is—

(a) acquired by the person in the period starting on 16 December 1991 and ending with the close of 31 March 1993, other than under a binding contract that they entered into before 16 December 1991; or

(b) acquired by the person in the period starting on 1 April 1993 and ending with the close of 31 March 1994, under a binding contract that they entered into in the period starting on 16 December 1991 and ending with the close of 31 March 1993; or

(c) one to which all the following apply:

(i) it was acquired by the person before 16 December 1991 as trading stock; and

(ii) it was used by the person as a capital item for the first time in the period starting on 16 December 1991 and ending with the close of 31 March 1993; and

(iii) it qualified for a depreciation deduction under section 108 of the Income Tax Act 1976 in the period starting on 16 December 1991 and ending with the close of 31 March 1993.

Used before 1 April 1994

(4) The item is used by the person before 1 April 1994.

Not used

(5) The item is—

(a) not used in New Zealand before the date on which the person acquired it; and

(b) not an item or part of an item that qualified for a depreciation deduction under the Income Tax Act 1976 for a period before the date on which the person acquired it.

Origin:	(1) OB 1 'New Zealand-new asset'. (2) OB 1 'New Zealand-new asset'. (3) OB 1 'New Zealand-new asset'. (4) OB 1 'New Zealand-new asset'. (5) OB 1 'New Zealand-new asset'.
Defined terms:	new item, New Zealand, New Zealand-new item, person, trading stock.

EZ 18 Qualifying capital value

Meaning

(1) **Qualifying capital value** means, in relation to an income year,—

(a) for a qualifying item that a person owns, the amount calculated for the income year using the formula in subsection (2); or

(b) for an item that a person owns that is not a qualifying item but to which they have made a qualifying improvement, the amount calculated for the income year using the formula in subsection (7).

Formula

(2) The formula referred to in subsection (1)(a) is—

(acquisition cost + improvement cost) – item's depreciation.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (6).

Acquisition cost

(4) **Acquisition cost** is the amount of capital expenditure the person incurs in acquiring the item. In the case of a constructed item, the amount of capital expenditure is reduced by the amount of capital expenditure the person incurs on the construction on or after 1 April 1993, other than under a binding contract that the person entered into before 1 April 1993.

Improvement cost

(5) **Improvement cost** is the amount of capital expenditure, if any, the person incurs in making a qualifying improvement to the item.

Item's depreciation

(6) **Item's depreciation** is the amounts of depreciation loss for which the person has been allowed a deduction under this Act and the depreciation deductions that the person has been allowed under the Income Tax Act 1976 for the qualifying capital value of the item in previous income years, not including an amount of depreciation loss or a depreciation deduction calculated using the straight-line method.

Formula

(7) The formula referred to in subsection (1)(b) is—

capital expenditure – improvement's depreciation.

Definition of items in formula

(8) The items in the formula are defined in subsections (8) and (9).

Capital expenditure

(9) **Capital expenditure** is the amount of capital expenditure the person incurs for the improvement.

Improvement's depreciation

(10) **Improvement's depreciation** is the amounts of depreciation loss for which the person has been allowed a deduction under this Act and the depreciation deductions that the person was allowed under the Income Tax Act 1976 for the qualifying capital value of the improvement in previous income years, not including an amount of depreciation loss or a depreciation deduction calculated using the straight-line method.

Origin:	(1) EG 15(5). (2) EG 15(5). (3) EG 15(5). (4) EG 15(5). (5) EG 15(5). (6) EG 15(5). (7) EG 15(5). (8) EG 15(5). (9) EG 15(5). (10) EG 15(5).
Defined terms:	amount, depreciation loss, income year, person, qualifying capital value, qualifying improvement, qualifying item, straight-line method.

EZ 19 Qualifying improvement

Meaning

(1) **Qualifying improvement**, in relation to a person's income year, means an improvement of an item that the person owns, if all the following apply:

(a) the person incurred the expenditure on the improvement—

(i) in the period starting on 16 December 1991 and ending with the close of 31 March 1993, other than under a binding contract they entered into before 16 December 1991; or

(ii) in the period starting on 1 April 1993 and ending with the close of 31 March 1994, under a binding contract they entered into in the period starting on 16 December 1991 and ending with the close of 31 March 1993; and

(b) the person used the item in its improved form before 1 April 1994; and

(c) the person is allowed a depreciation deduction under the Income Tax Act 1976 for the improvement for the income year; and

(d) subsection (2) does not apply to exclude the improvement from being a qualifying improvement.

Exclusions

(2) **Qualifying improvement** does not include—

(a) an improvement to a building; or

(b) an improvement requiring construction, if—

(i) the construction started before 16 December 1991; or

(ii) the construction started on or after 16 December 1991 under a binding contract that the person entered into before 16 December 1991; or

(iii) the construction was not completed before 1 April 1994; or

(iv) the improvement was not first used by the person before 1 April 1994.

Origin:	(1) OB 1 'qualifying improvement'.
	(2) OB 1 'qualifying improvement'.
Defined terms:	income year, person, qualifying improvement.

EZ 20 Qualifying item

Qualifying item means—

(a) a new item, other than a building, that a person owns in an income year and for which they are allowed a depreciation deduction under the Income Tax Act 1976 for the income year; or

(b) a New Zealand-new item, other than a building or a motorcar, that a person owns in an income year and for which they are allowed a depreciation deduction under the Income Tax Act 1976 for the income year.

Origin:	OB 1 'qualifying asset'.
Defined terms:	income year, motorcar, new item, New Zealand-new item, person, qualifying item.

Life insurance

EZ 21 Life insurers acquiring property before 1 April 1988

When this section applies

(1) This section applies when section DZ 1 (Life insurers acquiring property before 1 April 1988) applies.

Amount of deduction

(2) The amount of the deduction is calculated using the formula—

$$\frac{\text{specific liability}}{\text{total liability}} \quad x \quad \text{property sum.}$$

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (9).

Specific liability

(4) **Specific liability** is the amount in the life insurer's total liability on the last day of the 1987-88 income year for the following matters covered by the life insurer's Life Insurance Fund:

(a) superannuation policies; and

(b) pre-1983 mortgage repayment insurance policies; and

(c) annuities that have been granted.

Total liability

(5) **Total liability** is the life insurer's liability for life insurance policies on the last day of the 1987-88 income year.

Property sum

(6) The **property sum** is calculated under whichever is relevant of subsections (7) to (9).

Property acquired before last day of 1982-83 income year

(7) For property acquired on or before the last day of the 1982-83 income year, the property sum is calculated by subtracting the specified base cost for 1983 income year property from the market value of the property on 1 April 1988.

Property acquired after end of 1982-83 income year: not financial arrangement

(8) For property acquired after the end of the 1982-83 income year that is not a financial arrangement, the property sum is calculated by subtracting the cost price or acquisition value of the property from the market value of the property on 1 April 1988.

Property acquired after end of 1982-83 income year: financial arrangement

(9) For property acquired after the end of the 1982-83 income year that is a financial arrangement, the property sum is the base price adjustment for the arrangement, calculated as if the arrangement had matured on 1 April 1988 but using the formula in section EH 37 (Base price adjustment formula).

Allocation

(10) The life insurer is allowed the deduction in the income year in which they dispose of the property.

Origin:	(1) DK 3C(1), (2). (2) DK 3C(1). (3) DK 3C(1). (4) DK 3C(1). (5) DK 3C(1). (6) DK 3C(1). (7) DK 3C(1). (8) DK 3C(1). (9) DK 3C(1). (10) DK 3C(1).
Defined terms:	amount, deduction, financial arrangement, income year, Life Insurance Fund, life insurance policy, life insurer, property, specified base cost for 1983 income year property, superannuation policy.

Superannuation funds

EZ 22 Withdrawals on or between 14 and 30 September 2000 from late balance date superannuation funds

If a superannuation fund has a late balance date and derives income from a withdrawal to which section CS 1 (Withdrawals) applies on 14 or 30 September 2000 or between those dates, the income is treated as being derived in the 2001-02 income year.

Origin:	EN 7.
Defined terms:	derived, income, income year, late balance date, superannuation fund, withdrawal.

Livestock

EZ 23 Valuation of livestock bailed or leased as at 2 September 1992

When this section applies

(1) This section applies when—

(a) an owner of livestock valued a class of livestock for the 1991-92 income year under section 86 of the Income Tax Act 1976 (as that section was in force before its repeal by section 21 of the Income Tax Amendment Act (No 2) 1993); and

(b) the livestock was, as at 2 September 1992, at the use of a person under a bailment, lease, or other agreement that the owner entered into on or before that date, or was, on or before that date, livestock that was subject to a binding contract to bail or lease the livestock to a person, or otherwise allow them to use the livestock; or

(c) the class of livestock was not one that the owner had on hand in the previous income year, but was a class that, as at 2 September 1992, was at the use of a person under a bailment, lease, or other agreement that the owner entered into on or before that date.

Rolling average value

(2) The owner may value the livestock at a value equal to 70% of the rolling average value of that class of livestock.

When subsection (2) applies

(3) Subsection (2) applies for the 1992-93 income year and any later income year in which the livestock continues to be bailed, leased, or otherwise used by the person under the bailment, lease, or other agreement.

Number of livestock valued

(4) The number of listed livestock of a class that may be valued under this section is the number that is the least of—

(a) the number of livestock of the class bailed, leased, or otherwise used (or, for a binding contract entered into before 2 September 1992 but not yet applying, the number of livestock of that class provided for in the contract); and

(b) the number of livestock of the class bailed, leased, or otherwise used as at the end of the 1992-93 income year; and

(c) the lesser of the opening and closing number of stock of the class bailed, leased, or otherwise used in a later income year up to and including the income year in which the livestock is being valued.

'Rolling average value' defined

(5) In this section, **rolling average value**, for an income year and a class of listed livestock, means one-third of the sum of the national average market values set for that income year and each of the 2 previous income years for livestock of that class.

Origin:	(1) EZ 4(1). (2) EZ 4(1). (3) EZ 4(1). (4) EZ 4(2). (5) EZ 4(5).

Defined terms:	class, income year, lease, listed livestock, livestock, national average market value, person, rolling average value.

Patent rights

EZ 24 Buying patent rights before 1 April 1993

When this section applies

(1) This section applies when section DZ 6 (Buying patent rights before 1 April 1993) applies.

Amount of deduction

(2) The amount of the deduction is the expenditure that the person has incurred in buying the patent rights.

Amount when patent rights expired or disposed of

(3) If, before the expiry of the patent rights, the rights have come to an end or have been disposed of, the person is allowed a deduction of an amount that bears to the total sum of the expenditure on the purchase of the rights the same proportion as the unexpired term of the rights when they came to an end or were disposed of bears to their unexpired term at the date of their purchase. An amount that the person has otherwise been allowed as a deduction is not included.

Allocation

(4) The deduction referred to in subsection (2) is allocated to the income years in relation to which the term of the patent rights that is unexpired at the date of purchase applies.

Allocation

(5) The deduction referred to in subsection (3) is allocated to the income year in which the rights have come to an end or been disposed of.

Origin:	(1) EZ 5(1), (4).
	(2) EZ 5(2).
	(3) EZ 5(3).
	(4) EZ 5(2).
	(5) EZ 5(3).
Defined terms:	deduction, income year, patent rights, person.

Leases of land

EZ 25 Premium paid for lease of land

When this section applies

(1) This section applies when section DZ 7 (Premium paid for lease of land) applies.

Amount of deduction

(2) The amount of the deduction is the premium paid on the grant or renewal of the lease. If person A does not use the land for the whole of an income year, the amount of the deduction is reduced proportionately.

Amount when lease or renewal granted to another person

(3) If the lease or the renewal of the lease is granted to another person, the deduction must not be more than the amount of the premium paid by person A on the acquisition of the lease.

Allocation

(4) The deduction is allocated evenly to the income years in relation to which the term of the lease applies.

Definitions for this section

(5) In this section,—

lease—

(a) means a disposition by which a leasehold estate is created; and

(b) includes a licence

premium, for a lease of land,—

(a) includes a payment in the nature of a fine, a payment for goodwill attaching to the land, and a payment in consideration of the grant, transfer, or renewal of the lease; and

(b) does not include rent

term of the lease, for a lease of indefinite duration, means the minimum period it has to run.

Origin:	(1) EZ 6(1). (2) EZ 6(1). (3) EZ 6(1). (4) EZ 6(1). (5) EZ 6(2).
Defined terms:	amount, deduction, income year, lease, leasehold estate, person, premium, term of the lease.