

Part OB

Definitions and related matters

Subpart OB—General definitions

OB 1 Definitions

In this Act, unless the context otherwise requires,—

absentee—

- (a) means a person other than a person who is resident in New Zealand during any part of the tax year:
- (b) in **subpart HK** (Agency), means—
 - (i) a person (other than a company) who is for the time being out of New Zealand:
 - (ii) an overseas company, unless it has a fixed and permanent place of business in New Zealand at which it carries on business in its own name:
 - (iii) an overseas company that the Commissioner declares to be an absentee for the purposes of this Act by giving notice to the company or its agent or attorney in New Zealand, so long as the declaration remains unrevoked

absolute value means the value irrespective of whether the value's sign is positive or negative

ACC levy or premium is defined in **section EF 3(5)** (ACC levies and premiums) for the purposes of that section

accident compensation payment is defined in **section CF 1(2)** (Benefits, pensions, compensation, and government grants) for the purposes of that section

accident insurance contract is defined in **section CW 27(2)** (Compensation payments) for the purposes of that section

account advantage is defined in **section GC 22(9)** (Imputation: arrangement to obtain tax advantage) for the purposes of that section

accounting period, for a foreign company, means—

- (a) its accounting year; or
- (b) the relevant period of other than 12 months, if a person's attributed CFC income or loss or FIF income or loss from the foreign company is allowed or required to be calculated on the basis of a period other than 12 months because of—

- (i) the formation or liquidation of the foreign company (or similar circumstances); or
- (ii) a change of residence of the foreign company; or
- (iii) the adoption of a new accounting year under **section EX 26** (Change of CFC's balance date) or **EX 57** (Change of FIF's balance date)

accounting profits method means the method of calculating FIF income or FIF loss in **section EX 42** (Accounting profits method)

accounting year,—

- (a) for any person, means a tax year or another 12 month period—
 - (i) that ends with the date of the annual balance of the person's accounts; and
 - (ii) for which the person is required by this Act to file a return of income, except in **subpart LF** (Underlying foreign tax credits) and in the definitions of **accounting period**, **after-income tax earnings**, **commencement date**, and **eligible accounting year**:
- (b) for a company, in **subpart LF** (Underlying foreign tax credits), and in the definitions of **after-income tax earnings**, **commencement date**, and **eligible accounting year**, includes—
 - (i) a period, shorter than 12 months, that is the period for which accounts are prepared because of the formation of the company or the termination of the company's existence; and
 - (ii) a period, shorter or longer than 12 months, that is the period for which accounts are prepared because of the company adopting a new accounting balance date

accrual accounting method is defined in **section EG 2(4)** (Adjustment for changes to accounting practice) for the purposes of that section

accrual expenditure means an amount of expenditure that a person incurs on or after 1 August 1986 and that is allowed as a deduction under this Act or an earlier Act, other than expenditure incurred—

- (a) in the purchase of trading stock; or
- (b) from a financial arrangement; or

- (c) for a specified lease or an operating lease or a lease to which **section EJ 19** (Payment by lessee under personal property and operating leases) applies; or
- (d) under a binding contract entered into before 8.30 pm New Zealand Standard Time on 31 July 1986

acquisition is defined in **section GD 13(13)** (Cross-border arrangements between associated persons) for the purposes of that section

acquisition of control or income interests is defined in **section GC 9(7)** (Variations in control or income interests in foreign companies) for the purposes of that section

acquisition price is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

active service area is defined in **section CW 19(2)** (Deferred military pay for active service) for the purposes of that section

activities as an airport operator is defined in **section OC 1(6)** (Airport operators) for the purposes of that section

actuarial reserves has the meaning given to it by **section EY 3** (Meaning of actuarial reserves)

actuary means a person who is—

- (a) a Fellow of the New Zealand Society of Actuaries; or
- (b) a Fellow of the Institute of Actuaries of Australia; or
- (c) a Fellow of the Institute of Actuaries (of London); or
- (d) the holder of an equivalent professional qualification approved by the Commissioner for the purposes of this definition

additional capital is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

additional transport costs is defined in **section CW 14(3)** (Allowance for additional transport costs) for the purposes of that section

adequate rent is defined in **section GD 10(4)** (Leases for inadequate rent) for the purposes of that section

adjusted income tax liability means an adjusted income tax liability for a tax year calculated under **section BC 6(3)** (Income tax liability of filing taxpayer)

adjusted tax value—

- (a) has the meaning given to it by **sections EE 45 to EE 50** (which relate to depreciation):

- (b) for software acquired before 1 April 1993, has the meaning given to it by **section EZ 16** (Adjusted tax value for software acquired before 1 April 1993):
- (c) in **section FE 6** (Acquisition of property by amalgamated company on qualifying amalgamation), has the meaning given to it by **paragraphs (a) and (b) and sections EE 21 to EE 24** (which relate to depreciation)

adverse event deposit has the meaning given to it by **section EH 62** (Some definitions used in adverse event income equalisation scheme)

adverse event income equalisation account has the meaning given to it by **section EH 62** (Some definitions used in adverse event income equalisation scheme)

adverse event income equalisation scheme means the scheme referred to in **section EH 1(2)(b)** (Income equalisation schemes)

adverse event maximum deposit has the meaning given to it by **section EH 62** (Some definitions used in adverse event income equalisation scheme)

after-income tax earnings means the after-tax net accounting profits of a company for an accounting year, including extraordinary items and having regard to accounting provisions for tax and not statutory liabilities for tax, and dealt with in 1 of the following paragraphs:

- (a) after-tax net accounting profits calculated under generally accepted accounting practice and detailed in financial statements, audited by a chartered accountant (or an accountant of an equivalent professional standard in the country or territory in which the company is resident),—
 - (i) on which the accountant has given a standard audit opinion, without qualifications; or
 - (ii) on which the accountant has given a standard audit opinion containing only qualifications relating to accounting treatments that, in the opinion of the Commissioner, do not materially affect the calculation of amounts of underlying foreign tax credit; or
 - (iii) adjusted, in a manner satisfactory to the Commissioner, to eliminate any material effects of

- accounting treatments about which the accountant has qualified a standard audit opinion; or
- (b) if there are no financial statements as described in **paragraph (a)**, after-tax net accounting profits calculated under the generally accepted accounting practice (or an equivalent standard for the reporting of net profits in a consistent and non-distorting manner) of the country or territory in which the company is resident and detailed in financial statements, audited by a chartered accountant (or an accountant of an equivalent professional standard in the country or territory in which the company is resident),—
 - (i) on which the accountant has given a standard audit opinion, without qualifications, to the effect that the financial statements represent the income and financial position of the company to the degree of validity normally required in the country or territory in which the company is resident; or
 - (ii) on which the accountant has given a standard audit opinion containing only qualifications relating to accounting treatments that, in the opinion of the Commissioner, do not materially affect the calculation of amounts of underlying foreign tax credit; or
 - (iii) adjusted, in a manner satisfactory to the Commissioner, to eliminate any material effects of accounting treatments about which the accountant has qualified a standard audit opinion; or
 - (c) if there are no financial statements as described in **paragraph (a)** and if **paragraph (b)** does not apply, after-tax net accounting profits detailed in financial statements—
 - (i) that are used by the company for the purposes of reporting, other than reporting for income tax purposes, to any central or state government or any of such a government's agencies or instruments that has a regulatory function; and
 - (ii) that, if audited, are not the subject of a qualified audit opinion; or
 - (d) if there are no financial statements as described in **paragraph (a)** and if **paragraph (b)** does not apply, after-tax net accounting profits detailed in financial statements—

- (i) that are used by the company for the purposes of reporting, other than reporting for income tax purposes, to creditors of the company who are not persons associated with the company; and
- (ii) that, if audited, are not the subject of a qualified audit opinion

after-income tax loss has a meaning corresponding to the meaning of **after-income tax earnings**

agent means a person declared by this Act to be an agent for the purposes of income tax

agreement for the sale and purchase of property is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

agreement for the sale and purchase of property or services—

- (a) means a financial arrangement that is a conditional or unconditional agreement to—
 - (i) acquire or dispose of property; or
 - (ii) obtain or supply services; and
- (b) does not include a forward contract, a futures contract, an option, or a specified option

air transport from New Zealand is defined in **section CW 41(3)** (Non-resident aircraft operators) for the purposes of that section

airport is defined in **section OC 1(6)** (Airport operators) for the purposes of that section

airport asset is defined in **section OC 1(6)** (Airport operators) for the purposes of that section

airport authority has the meaning given to it by section 2 of the Airport Authorities Act 1966

airport operator means the Crown, acting by and through the Minister of Transport, and any local authority that is an airport authority, in their respective capacities as joint venturers under a joint venture agreement

allocation debit means an amount arising as an allocation debit under **section ME 8(4)** (Allocation rules for imputation credits)

allocation deficit debit means an amount arising as an allocation deficit debit under **section MG 8(4) or (5)** (Allocation rules for dividend withholding payment credits)

allowable rebates—

- (a) means the total of the rebates and credits of tax that a person is allowed in a tax year under **Part K** (Rebates), excluding rebates allowed under **section KC 4** (Rebate in certain cases for housekeeper) or **KC 5** (Rebate in respect of gifts of money); and
- (b) includes a rebate of tax a person is allowed under **section EH 30** (When person entitled to rebate of income tax) or **EH 79** (Sections of main income equalisation scheme that apply to thinning operations income equalisation scheme)

allowance is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

amalgamated company means the 1 company that results from and continues after an amalgamation and that may be 1 of the amalgamating companies or a new company

amalgamating company means a company that amalgamates with 1 or more other companies under an amalgamation

amalgamation means an amalgamation to which both the following apply:

- (a) it—
 - (i) occurs under Part 13 or 15 of the Companies Act 1993; or
 - (ii) occurred under section 24A of the Co-operative Dairy Companies Act 1949; or
 - (iii) occurs or occurred under a foreign law that has the same effect as, or a similar effect to, the provisions referred to in **subparagraphs (i) and (ii)**; and
- (b) it causes 2 or more companies to amalgamate and continue as 1 company

amalgamation provisions is defined in **section FE 1(2)** (Amalgamation of companies: purpose) for the purposes of that section

amount—

- (a) includes an amount in money's worth:

- (b) in **sections CB 23** (Disposal of timber or right to take timber), **CB 24** (Disposal of land with standing timber), **and CB 26** (Disposal of minerals), includes the amount treated as—
- (i) the price paid or realised under **section FB 4** (Income derived from disposal of trading stock together with other assets of business):
 - (ii) the consideration under **section FF 7** (Disposal of timber under matrimonial agreement):
 - (iii) the price realised under **section GD 1** (Sale of trading stock for inadequate consideration):
 - (iv) the price realised under **section GD 2** (Distribution of trading stock to shareholders of company):
- (c) is defined in **section EH 36(2)** (Main maximum deposit: definition referred to in **section EH 34**) for the purposes of that section:
- (d) is defined in **section EH 81(3)** (Thinning operations maximum deposit: definition referred to in **section EH 80**) for the purposes of that section:
- (e) is defined in **section GD 13(13)** (Cross-border arrangements between associated persons) for the purposes of that section:
- (f) is defined in **section ND 1C(4)** (Subsidised transport: value of benefit) for the purposes of that section:
- (g) is defined in **section ND 1H(2)** (Contributions to superannuation schemes: value of benefit) for the purposes of that section:
- (h) is defined in **section ND 1K(2)** (Services: value of benefit) for the purposes of that section

amount of all consideration is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

amount of restitution is defined in **section DB 35(3)** (Restitution of stolen property) for the purposes of that section

amount of the debenture is defined in **section FC 2(5)** (Interest on debentures issued in substitution for shares) for the purposes of that section

annual gross income has the meaning given to it by **section BC 2** (Annual gross income)

annual imputation return means the return to be filed with the Commissioner by a company under section 69 of the Tax Administration Act 1994

annual income tax balance date is defined in **section EG 1(10)** (Election to use balance date used in foreign country) for the purposes of that section

annual rate has the meaning given to it by **section EE 51** (Annual rate)

annual rates means the rates of income tax fixed for a tax year by the annual taxing Act for that year

annual taxing Act means the provisions of any Act by which the rates of income tax are fixed for a tax year

annual total deduction has the meaning given to it by **section BC 3** (Annual total deduction)

applicable basic tax rate means,—

- (a) for a person other than a person to whom section 39 of the Tax Administration Act 1994 applies and for a tax year, the basic rate of income tax under **schedule 1** (Basic rates of income tax and specified superannuation contribution withholding tax) that is applicable to the person's taxable income for the tax year; or
- (b) for a person and for a tax year for which the person is filing a return under section 39 of the Tax Administration Act 1994 for a period that is less than or greater than 12 months, the basic rate of income tax under **schedule 1** (Basic rates of income tax and specified superannuation contribution withholding tax) that would apply if the person's taxable income for the tax year were an amount calculated using the formula—

$$\frac{365}{a} \times b$$

where—

- a is the number of days in the period for which the person is filing a return
- b is the person's taxable income for the period

approved issuer means a person for whom an approval under **section NG 6** (Approval of person as approved issuer) is in force

arrangement means an agreement, contract, plan, or understanding (whether enforceable or unenforceable), including all steps and transactions by which it is carried into effect

arrangement for assistance entered into by the government of New Zealand is defined in **section CW 17(3)** (Amounts

derived by overseas experts and trainees in New Zealand by government arrangement) for the purposes of that section

assessment—

- (a) means an assessment of tax—
 - (i) that is made under a tax law by a person or the Commissioner:
 - (ii) that is an amendment by the Commissioner to an assessment:
 - (iii) that includes a net loss and any terminal tax or refund due; and
- (b) includes in the case of GST, an assessment of any refund due

asset is defined in **section CU 11** (Meaning of asset for **sections CU 3 to CU 10**) for the purposes of **sections CU 3 to CU 10** (which relate to income from mining)

associated mining operations has the meaning given to it by **section CU 28** (Other definitions)

associated person, and other expressions about the association of persons with each other, have the meanings given to them by **sections OD 7** (Defining when 2 persons are associated persons) and **OD 8** (Further definitions of associated persons)

association is defined in **section HF 1(9)** (Profits of mutual associations in respect of transactions with members) for the purposes of that section

at all relevant times is defined in **section OD 5(6C)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of **section OD 5(6A)(b)(ii)**

attributed CFC income has the meaning given to it by **sections CQ 2** (When attributed CFC income arises) and **CQ 3** (Calculation of attributed CFC income)

attributed CFC loss has the meaning given to it by **sections DN 2** (When attributed CFC loss arises) and **DN 3** (Calculation of attributed CFC loss)

attributed CFC net loss, for a person and for an income year in which they have an attributed CFC loss, means the part of the loss that the person is denied as a deduction because of **section DN 4** (Ring-fencing cap on deduction), but must instead deal with under **Part I** (Treatment of net losses)

attributed repatriation has the meaning given to it by **section CD 35** (When does a person have attributed repatriation from a CFC?)

attributing interest means an attributing interest in a foreign investment fund as defined in **sections EX 30 to EX 37** (which relate to attributing interests in a FIFs)

author is defined in **section EI 6(6)** (Assigning or granting copyright) for the purposes of that section

authorised savings institution means an authorised savings institution as defined in the Farm Ownership Savings Act 1974, the Home Ownership Savings Act 1974, or the Fishing Vessel Ownership Savings Act 1977

available capital distribution amount means the amount calculated for a share in a company under **section CD 34** (Available capital distribution amount)

available net loss means an amount a person is entitled to offset against net income under **Part I** (Treatment of net losses)

available subscribed capital means the amount calculated for a share in a company under **section CD 33** (Available subscribed capital amount)

balance date is defined in **schedule 13** (Months for payment of provisional tax and terminal tax) for the purposes of that schedule

balloted loan right is defined in **section DV 11(3)** (Building societies) for the purposes of that section

banking company means a person carrying on in New Zealand the business of banking

base premium for the 1998–99 premium year is defined in **section EZ 3(3)** (Base premium for 1998–99 premium year under Accident Insurance Act 1998) for the purposes of that section

basic rates means the rates of income tax specified in **schedule 1** (Basic rates of income tax and specified superannuation contribution withholding tax)

basic tax deductions means the amounts of tax deductions specified in **schedule 19** (Basic tax deductions)

basis of exemption is defined in **section NF 9(2)** (Certificates of exemption) for the purposes of **sections NF 11** (Cancellation of certificates of exemption) and **NF 9**

benchmark dividend—

- (a) means the first dividend paid by a company in an imputation year, unless the first dividend is 1 of the kinds described in **paragraph (b)**:
- (b) if the first dividend paid by a company in an imputation year is a distribution of a co-operative company for which the company has made a determination under **section ME 35** (Co-operative company may make annual determination to attach imputation credit to certain distributions) or is paid when the company was not an imputation credit account company, means the first dividend paid by the company in the imputation year that is not such a dividend

beneficiary is defined in **section DX 1(5)** (Testamentary annuities) for the purposes of that section

beneficiary income, for a person who is a beneficiary of a trust, other than a unit trust, and for an income year,—

- (a) means—
 - (i) income derived in the income year by a trustee of the trust to the extent to which it vests, in the income year, absolutely in interest in the beneficiary; or
 - (ii) income derived in the income year by a trustee of the trust to the extent to which the trustee pays or applies it to or for the benefit of the beneficiary in, or within 6 months after the end of, the income year; or
 - (iii) a foreign-sourced amount derived in the income year by a trustee of a trust that would have been income of the trustee had any settlor of the trust been resident in New Zealand at any time in the income year, to the extent to which it vests, in the income year, absolutely in interest in the beneficiary; or
 - (iv) a foreign-sourced amount derived in the income year by a trustee of a trust that would have been income of the trustee had any settlor of the trust been resident in New Zealand at any time in the income year, to the extent to which the trustee pays or applies it to or for the benefit of the

beneficiary in, or within 6 months after the end of, the income year; and

- (b) does not include—
 - (i) income derived by a trustee in an income year in which the trust is a superannuation fund; or
 - (ii) income of a trustee to which **section CC 3** (Financial arrangements) applies;
 - (iii) management fees to which **section DV 8** (Group investment funds) applies

benefit is defined in **section DB 36(5)** (Bribes paid to public officials) for the purposes of that section

binding ruling has the meaning given to it by section 3 of the Tax Administration Act 1994

bloodstock—

- (a) means a horse that is a member of the standardbred or thoroughbred breed of horses; and
- (b) includes a share or interest in such a horse

body is defined in **section NF 10(6)** (Unincorporated bodies) for the purposes of that section

bonus issue—

- (a) means the issue of shares in a company, or the giving of credit for some or all of the amount unpaid on any shares in a company, or the forgiveness of some or all of the amount unpaid on any shares in a company, if the company receives no consideration for the issue, crediting, or forgiveness (other than consideration by way of the shareholder's electing not to receive money or money's worth as an alternative to the issue); and
- (b) for any issue or crediting on or before 20 August 1985, does not include any extent to which the issue or crediting was excluded, at the time it occurred, from the meaning of "bonus issue" under section 3(3) or (4) of the Income Tax Act 1976

bonus issue in lieu means a bonus issue made, on or after 1 October 1988, under an arrangement conferring on shareholders of a company an election whether to receive—

- (a) a bonus issue; or
- (b) money or money's worth (other than money's worth that is a bonus issue)

branch equivalent company means, at any time for any person, a company that is at the time—

- (a) a controlled foreign company; or
- (b) a company from which the person is deriving FIF income or incurring FIF loss that they calculate using the branch equivalent method (including income or loss under **section EX 43(6)** (Branch equivalent method))

branch equivalent income, for a foreign company and for an accounting period, means the amount of income for the accounting period calculated under **section EX 21** (Branch equivalent income or loss: calculation rules)

branch equivalent loss, for a foreign company and for an accounting period, means the amount of loss for the accounting period calculated under **section EX 21** (Branch equivalent income or loss: calculation rules)

branch equivalent method means the method of calculating FIF income or FIF loss in **section EX 43** (Branch equivalent method)

branch equivalent tax account means the account maintained by a branch equivalent tax account company under **section MF 1(3)** (Company may elect to maintain branch equivalent tax account) or a branch equivalent tax account person under **section MF 11(3)** (Person may elect to maintain branch equivalent tax account)

branch equivalent tax account company means a company that, having made an election under **section MF 1(1)** (Company may elect to maintain branch equivalent tax account), is required by **section MF 1(3)** to maintain a branch equivalent tax account

branch equivalent tax account person means a person who is not a company and who, having made an election under **section MF 11(1)** (Person may elect to maintain branch equivalent tax account), is required by **section MF 11(3)** to maintain a branch equivalent tax account

bribe is defined in **section DB 36(5)** (Bribes paid to public officials) for the purposes of that section

broodmare means a broodmare that is bloodstock

building society has the meaning given to it by section 2 of the Building Societies Act 1965

business—

- (a) includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit:
- (b) is further defined in **section DD 11** (Some definitions) for the purposes of **subpart DD** (Entertainment expenditure)

business contacts is defined in **section DD 11** (Some definitions) for the purposes of **subpart DD** (Entertainment expenditure)

business premises is defined in **section DD 11** (Some definitions) for the purposes of **subpart DD** (Entertainment expenditure)

business purposes has the same meaning as **business use**

business use, for a motor vehicle and for a person, means travel undertaken by the vehicle wholly in deriving the person's income

calculation method, for the calculation of FIF income or FIF loss, means any of the accounting profits method, the branch equivalent method, the comparative value method, and the deemed rate of return method

calculation period is defined in **section KD 5(6)(a)** (Credit of tax by instalments) for the purposes of that section

cancellation, for a company and for a share, means the acquisition, redemption, or other cancellation of the whole share by the company, including on the liquidation of the company

capital film expenditure is defined in **section DS 7** (Some definitions) for the purposes of **subpart DS** (Film industry expenditure)

capital limitation has the meaning given to it by **section DA 2(1)** (General limitations)

capital property is defined in **section CD 34(17)** (Available capital distribution amount) for the purposes of that section

cash accounting method is defined in **section EG 2(4)** (Adjustment for changes to accounting practice) for the purposes of that section

cash basis person has the meaning given to it by **section EW 62** (Description of cash basis person)

casual agricultural employee means—

- (a) a casual agricultural worker:
- (b) a shearer:
- (c) a shearing shed hand

casual agricultural worker means a person engaged on a day to day basis for a period of no more than 3 months as a casual seasonal worker for the exclusive purpose of doing seasonal agricultural, horticultural, market gardening, nursery, orchard, or tobacco farming work, or other seasonal work that, in the opinion of the Commissioner, is work of a like nature to those classes of work

category A income, for a group investment fund that is not a designated group investment fund, means so much of the income derived from the investments and funds of the group investment fund in a tax year as is calculated using the formula—

$$\frac{a}{b} \times c$$

where—

- a is the specified value
- b is the current value of all the investments and funds of the group investment fund
- c is the income derived from all the investments and funds of the group investment fund in the tax year

category B income, for a group investment fund that is not a designated group investment fund, means so much of the income derived from the investments and funds of the group investment fund in a tax year as is not category A income

certificate of entitlement means a certificate issued under **section KD 5** (Credit of tax by instalments)

certificate of exemption means a certificate issued under **section NF 9** (Certificates of exemption)

CFC means a controlled foreign company as defined in **section EX 1** (When company is CFC)

charitable organisation—

- (a) means, for a quarter or an income year, an association, fund, institution, organisation, society, or trust to which **section KC 5(1)** (Rebate in respect of gifts of money) applies—
 - (i) in the quarter; or
 - (ii) in the income year, if fringe benefit tax is payable on an income year basis under **section ND 14** (Payment of fringe benefit tax on income year basis for shareholder-employees); and

- (b) does not include a local authority, a public authority, or a university

charitable purpose includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community

charitable trust has the meaning given to it by **section HH 1(5) and (6)** (Interpretation) for the purposes of the trust rules and **section HH 1**

chief executive of the department currently responsible for administering the Social Security Act 1964—

- (a) means the chief executive of that department appointed under the State Sector Act 1988; and
- (b) includes any person for the time being authorised to exercise or perform any of the powers or functions of the chief executive, whether by delegation by the chief executive or otherwise

child—

- (a) is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section:
- (b) in **subpart KD** (Tax credits for family support and family plus), and in the definition of **dependent child**, means an unmarried person who—
 - (i) is aged 15 years or less; or
 - (ii) is aged 16 or 17 years and is not financially independent; or
 - (iii) is aged 18 years and is a person for whom a credit of tax is allowed under **section KD 2** (Calculation of subpart KD credit) or both **sections KD 2** (Calculation of subpart KD credit) and **KD 3** (Calculation of family tax credit)

child tax credit means,—

- (a) for the purpose of calculating a component of an interim instalment of credit of tax for a period under **section KD 5** (Credit of tax by instalments), the component of the instalment given by **section KD 5B(4)** (Rates for interim instalments for period beginning on or after 1 July 1998); or
- (b) for any other purpose, the component of the subpart KD credit given by **section KD 2(4)** (Calculation of subpart KD credit)

claim, in the life insurance rules, has the meaning given to it by **section EY 7** (Meaning of claim)

class, in **subpart EC** (Valuation of livestock), and in the definition of **national average market value**,—

- (a) means a category of livestock listed in **schedule 8, column 2** (Types and classes of livestock); and
- (b) when used of a particular type of livestock, means any of the categories listed for that particular type

close company—

- (a) means, at any time, a company to which 1 of the following applies:
 - (i) at the time there are 5 or fewer natural persons the total of whose voting interests in the company is more than 50% (treating all natural persons associated at the time as 1 natural person); or
 - (ii) at the time a market value circumstance exists for the company and there are 5 or fewer natural persons the total of whose market value interests in the company is more than 50% (treating all natural persons associated at the time as 1 natural person); and
- (b) in **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies), includes a company with 25 or fewer shareholders; and
- (c) does not include a special corporate entity

close of trading spot exchange rate, for any foreign currency on any day, means—

- (a) the rate of a spot contract for the purchase of New Zealand dollars using the foreign currency at any time on that day on a market approved, with the rate ascertained from the sources of information approved, by the Commissioner in determination G6D made under section 64E of the Income Tax Act 1976 (or a determination issued in substitution for that determination) and, if such a rate cannot be ascertained for that day, then the rate on the next day on which it can be ascertained and that is not later than 5 working days after the first day; or
- (b) if, for any foreign currency, no such rate of a spot contract can be so ascertained, the cross rate determined as at 3.00 pm New Zealand time on that day by applying

the method outlined in paragraph 6(3)(c) of determination G6D made under section 64E of the Income Tax Act 1976 (or in the corresponding paragraph of a determination issued in substitution for that determination); or

- (c) if, for any foreign currency, **paragraphs (a) and (b)** do not apply, the rate determined by applying the method specified in paragraph 6(2) of determination G9A made under section 64E of the Income Tax Act 1976 (or in the corresponding paragraph of a determination issued in substitution for that determination)

closely-held company means, at any time, a company to which 1 of the following applies:

- (a) at the time there are 5 or fewer persons the total of whose direct voting interests in the company is more than 50% (treating all persons associated at the time as 1 person); or
- (b) at the time,—
- (i) a market value circumstance exists for the company; and
 - (ii) there are 5 or fewer persons the total of whose direct market value interests in the company is more than 50% (treating all persons associated at the time as 1 person)

closing stock, for a person and for an income year, means trading stock of the person at the end of the income year

closing value has the meaning given to it by **section EA 1(8)** (Trading stock, livestock, and excepted financial arrangements)

combined imputation and dividend withholding payment ratio, for a dividend with both an imputation credit and a dividend withholding payment credit attached, means an amount calculated using the formula—

$$\frac{a}{b}$$

where—

- a is the amount of the total of the imputation credit and the dividend withholding payment credit

- b is the amount of the dividend paid (exclusive of the imputation credit and the dividend withholding payment credit)

combined tax and earner levy deduction has the same meaning as **combined tax and earner premium deduction**
combined tax and earner premium deduction means, for a source deduction payment, the total of—

- (a) the tax deduction required to be made from the source deduction payment under the PAYE rules; and
- (b) the deduction required to be made from the source deduction payment under—
 - (i) section 115 of the Accident Rehabilitation and Compensation Insurance Act 1992, on account of the earner's premium payable by employees under that Act; or
 - (ii) section 285 of the Accident Insurance Act 1998, on account of the earner's premium payable by employees under that Act; or
 - (iii) section 221 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, on account of the earner's levy payable by employees under that Act

commencement date, in **subpart LF** (Underlying foreign tax credits), and in the definition of **eligible accounting year**, means, for a company, the first day of the company's accounting year in which 28 September 1993 falls

commencement of this Act, in **sections YA 4** (Saving of binding rulings), **YA 5** (Saving of accrual determinations), and **YA 6** (Comparative tables of old and new provisions) means commencement under **section A 2(2)** (Commencement)

commercial bill—

- (a) includes—
 - (i) a document creating or securing a legal or equitable security over goods (as defined in section 16 of the Personal Property Securities Act 1999) for the payment of money owing or to become owing, whether or not the document is registered under an Act; and
 - (ii) a bill of exchange (as defined in section 3 of the Bills of Exchange Act 1908); and

- (iii) a promissory note (as defined in section 84 of the Bills of Exchange Act 1908), other than a bank-note; and
 - (iv) a Treasury Bill; and
 - (v) a document or agreement that has substantially the same purpose or effect as an item referred to in any of **subparagraphs (i) to (iv)**; and
 - (vi) a share or interest in an item referred to in any of **subparagraphs (i) to (v)**; and
- (b) does not include—
- (i) a debenture or bond for the payment of a security issued by a body corporate; or
 - (ii) a security, whether legal or equitable, over an estate or interest in land

commercial production means the production of petroleum—

- (a) in a state suitable for delivery to a buyer, consumer, processor, refinery, or user; and
- (b) in commercial quantities; and
- (c) on a continuing basis

commission agency contract is defined in **section OE 5(2)** (Commission agency contracts performed out of New Zealand) for the purposes of that section

commission agent is defined in **section OE 5(2)** (Commission agency contracts performed out of New Zealand) for the purposes of that section

Commissioner means the Commissioner of Inland Revenue as defined in the Tax Administration Act 1994

common interests is defined in **section OD 5(6D)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of **section OD 5(6B)**

common market value interest—

- (a) is defined in **section IG 1(5)** (Companies included in group of companies) for the purposes of that section:
- (b) is defined in **section OD 5(6E)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of **section OD 5(6D)**

common voting interest—

- (a) is defined in **section IG 1(5)** (Companies included in group of companies) for the purposes of that section:

- (b) is defined in **section OD 5(6E)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of **section OD 5(6D)**

Commonwealth—

- (a) means the British Commonwealth of Nations; and
(b) includes every territory for whose international relations the Government of any country of the Commonwealth is responsible

communal home is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section

company—

- (a) means a body corporate or other entity that has a legal existence separate from that of its members, whether it is incorporated or created in New Zealand or elsewhere:
(b) includes a unit trust:
(c) includes a group investment fund that is not a designated group investment fund, but only to the extent to which the fund results from investments made into it that are—
(i) not from a designated source, as defined in **section HE 2(3)** (Group investment funds); and
(ii) not made before 23 June 1983, including an amount treated as invested at that date under **paragraph (c) or (d)** of the definition of **protected amount** in **section HE 2(3)** (Group investment funds):
(d) includes an airport operator:
(e) includes a statutory producer board:
(f) includes a society registered under the Incorporated Societies Act 1908:
(g) includes a society registered under the Industrial and Provident Societies Act 1908:
(h) includes a friendly society:
(i) includes a building society:
(j) does not include a Maori authority:
(k) is further defined in **section EX 31(7)** (Direct income interests in FIFs) for the purposes of that section

company dividend statement means a statement required by section 67 of the Tax Administration Act 1994 to be completed and retained by a company for a dividend

comparative value method means the method of calculating FIF income or FIF loss in **section EX 44** (Comparative value method)

completed, for a film, means the completion of the film to—

- (a) the stage of production at which the film has been completely edited, shot by shot, to its final length; or
- (b) a production stage equivalent to that described in **paragraph (a)**

conduct, in **sections FF 18** (Land used in specified activity) and **IE 2** (Specified activity net losses), and in the definitions of **existing farmer** and **specified activity**, means carry on or engage in or hold an interest in a specified activity, whether—

- (a) alone; or
- (b) in association with any other person or persons as—
 - (i) a member of a partnership; or
 - (ii) a member of a special partnership; or
 - (iii) a joint venturer; or
 - (iv) a co-owner

conduit tax relief account means the account a conduit tax relief company must maintain under **section MI 2** (Company may elect to be conduit tax relief company and maintain conduit tax relief account)

conduit tax relief additional dividend means a dividend paid under **section LG 1** (Conduit tax relief additional dividends)

conduit tax relief company means—

- (a) a company that has made an election under **section MI 2** (Company may elect to be conduit tax relief company and maintain conduit tax relief account), until the revocation of that election is effective;
- (b) a company that is a conduit tax relief company under **section MI 16** (Consolidated group member is conduit tax relief company)

conduit tax relief credit means the credit attached to the dividend under **section MI 7** (Attachment of conduit tax relief credit to dividend)

conduit tax relief group member has the meaning given to it by **section OE 7** (Conduit tax relief holding companies and group members)

conduit tax relief holding company has the meaning given to it by **section OE 7** (Conduit tax relief holding companies and group members)

consideration—

- (a) in **sections CT 1, CT 2, CX 37, CZ 7, DT 2 to DT 4, DT 8, and DZ 6** (which relate to petroleum mining), and in the definitions of **farm-out arrangement** and **petroleum miner**, includes money received or receivable and the market value of property (other than money) received or receivable:
- (b) for the purposes of **section EE 36** (Application of **sections EE 40 to EE 43**), has the meaning given to it by **section EE 37** (Consideration for purposes of **section EE 36**):
- (c) means an amount determined under the financial arrangements rules in—
 - (i) the financial arrangements rules:
 - (ii) **section EX 21(11)** (Branch equivalent income or loss: calculation rules):
 - (iii) **section FC 10(8)(a)** (Taxation of hire purchase agreements):
 - (iv) **section FD 10(4A)(b)(i)** (Special provisions relating to dispositions of property):
 - (v) **section FE 6(6)(b)(i)** (Acquisition of property by amalgamated company on qualifying amalgamation):
 - (vi) **section FE 7(2)(b)(i)** (Succession of obligations of amalgamating company under financial arrangement on amalgamation):
 - (vii) **section FE 10(6)** (Treatment of financial arrangements between amalgamating companies):
 - (viii) **section HH 5(b)** (Existing trusts becoming subject to tax):
 - (ix) the definitions of **lessee's acquisition cost** and **lessor's disposition value**

consolidated group means, at any time, a consolidated group formed under **section FD 4** (Formation of consolidated group) as it is constituted at that time

consolidation rules means—

- (a) the following provisions:
 - (i) **subpart FD** (Consolidation of companies):

- (ii) **section GC 24** (Application of specific imputation provisions to consolidated groups):
 - (iii) **subpart HB** (Consolidated groups of companies):
 - (iv) **section IG 6** (Loss carry forward and grouping by consolidated group and consolidated group members):
 - (v) **section IG 7** (Attributed CFC net losses and FIF net losses of consolidated group members):
 - (vi) **section LC 16** (Foreign tax credits of consolidated group members):
 - (vii) **section MB 7** (Provisional tax of consolidated group members):
 - (viii) **sections ME 10 to ME 14** (which relate to consolidated groups):
 - (ix) **sections ME 25 to ME 28** (which relate to policyholder credit accounts and consolidated groups):
 - (x) **section ME 40** (Determinations by Commissioner as to credits and debits arising to imputation credit account):
 - (xi) **sections MF 7 to MF 10** (which relate to consolidated groups):
 - (xii) **sections MG 13 to MG 16** (which relate to consolidated groups):
 - (xiii) **section NB 1** (Withholding tax obligations of consolidated group members):
 - (xiv) **section NH 5** (Dividend withholding payments and consolidated groups):
 - (xv) **section NH 6** (Application of specific dividend withholding payment provisions to consolidated groups); and
- (b) sections 73 and 74 of the Tax Administration Act 1994
- continental shelf** has the meaning given to it by the Continental Shelf Act 1964
- continuity provisions** means—
- (a) **section GC 2** (Arrangements to defeat application of net loss carry forward provisions); and
 - (b) **section GC 4** (Arrangement to defeat application of net loss offset provisions); and
 - (c) **section IE 1** (Net losses may be offset against future net income); and

- (d) **section IF 1** (Net losses may be offset against future net income); and
- (e) **section IG 2(1) and (2)(e)** (Net loss offset between group companies); and
- (f) **section LE 2(7)** (Credits in respect of dividends to non-resident investors); and
- (g) **section ME 5(1)(i)** (Debits arising to imputation credit account); and
- (h) **section MF 4(1)(e)** (Credits and debits arising to branch equivalent tax account of company); and
- (i) **section MF 4(3)(d)** (Credits and debits arising to branch equivalent tax account of company); and
- (j) **section MG 5(1)(i)** (Debits arising to dividend withholding payment account)

contract of service is defined in **section DC 4(5)** (Payments to working partners) for the purposes of that section

contribution, in the fringe benefit tax rules, means a contribution made—

- (a) directly; or
- (b) indirectly by reimbursement through another person

control, for a company, has the meaning given to it by **section OD 1** (Defining when company is under control of persons)

control interest, for a foreign company, has the meaning given to it by **sections EX 2** (Four categories for calculating control interests) and **EX 7** (Indirect control interests)

control interest category means 1 of the categories of control interest listed in **section EX 2(3)** (Four categories for calculating control interests)

controlled foreign company has the meaning given to it by **section EX 1** (When company is CFC)

controlled foreign company tax credit means a tax credit available for crediting under **section LC 4(1)** (Foreign tax credits: CFCs)

controlled petroleum mining company means a company that is a petroleum miner if—

- (a) 90% or more in value of its outstanding shares are held, directly or indirectly, by or for 5 or fewer persons; and
- (b) the market value of any petroleum permit, including petroleum mining assets attributable to that permit, held by the company is at least 75% of the value of its assets

minus its liabilities, as specified in the company's audited financial statement or accounts prepared according to generally accepted accounting practice

controlled petroleum mining entity means—

- (a) a controlled petroleum mining company; or
- (b) a controlled petroleum mining holding company; or
- (c) a controlled petroleum mining trust; or
- (d) a controlled petroleum mining holding trust

controlled petroleum mining holding company means a company if—

- (a) 90% or more in value of its outstanding shares are held, directly or indirectly, by or for 5 or fewer persons; and
- (b) the total market value of the following shares and trust interests held by the company is at least 75% of the value of its assets minus its liabilities, as specified in the company's audited financial statement or accounts prepared according to generally accepted accounting practice:
 - (i) shares in petroleum mining companies;
 - (ii) shares in petroleum mining holding companies;
 - (iii) trust interests in petroleum miners that are trusts;
 - (iv) trust interests in petroleum mining holding trusts

controlled petroleum mining holding trust means a trust that is a petroleum miner if—

- (a) 90% or more in value of the trust is owned, directly or indirectly, by or for 5 or fewer persons; and
- (b) the total market value of the following shares and trust interests held by the trust is at least 75% of the value of its assets minus its liabilities, as specified in the trust's accounts prepared according to generally accepted accounting practice:
 - (i) trust interests in petroleum miners that are trusts;
 - (ii) trust interests in other petroleum mining holding trusts;
 - (iii) shares in petroleum miners that are companies;
 - (iv) shares in petroleum mining holding companies

controlled petroleum mining trust means a trust that is a petroleum miner if—

- (a) 90% or more in value of the trust is owned, directly or indirectly, by or for 5 or fewer persons; and

- (b) the market value of a petroleum permit, including permit-specific assets attributable to that permit, held by the trust is at least 75% of the value of its assets minus its liabilities, as shown in the trust's accounts prepared in accordance with generally accepted accounting practice

controlling shareholder is defined in **section HK 11(10)** (Liability for tax payable by company left with insufficient assets) for the purposes of that section

convertible credit means a credit that a person is allowed under **Part L** (Credits)—

- (a) as an imputation credit; or
- (b) for a dividend withholding payment, if the person is not entitled to a refund of the credit under **Part N** (Withholding taxes and taxes on income of others)

convertible note means a bond, certificate, debenture, document, note, or writing that—

- (a) is issued or given by a company; and
- (b) is contained in 1 document or in 2 or more documents that together comply with **paragraphs (c) and (d)**; and
- (c) acknowledges, creates, evidences, or relates to a loan to the company or any money subscribed to the company or any other liability of the company, whether or not there is a charge over the undertaking or any of the assets of the company securing some or all of the amount for which the company has issued or given the convertible note; and
- (d) provides, in accordance with a trust deed or otherwise, and whether exclusively or not,—
 - (i) for the holder to have a right to subscribe for shares or stock in the capital of the company or in the capital of any other company; or
 - (ii) for the amount or any part of the amount, with or without interest and whether at par or otherwise, to be converted into, or to be redeemed or paid by the issue of, shares or stock in the capital of the company, whether the conversion, redemption, or payment by the issue of shares or stock is mandatory or is at the option of the company or of the holder of the convertible note

co-operative company does not include a statutory producer board

co-operative marketing company is defined in **section OC 4(3)** (Co-operative marketing companies: regulations) for the purposes of that section

copyright in a sound recording means the copyright in the version of the recording of which copies have been sold or offered for sale to the public

core acquisition price is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

corporation is defined in **section KE 1(3)** (Rebate for interest on home vendor mortgages) for the purposes of that section

corpus, for a trust other than a unit trust,—

- (a) means an amount equal to the market value of a settlement of property on the trust at the date of settlement:
- (b) does not include an amount equal to the market value of a settlement of any of the kinds described in **paragraphs (c) to (f)**, whether made directly or indirectly and whether by 1 transaction or a series of transactions:
- (c) for the purposes of **paragraph (b)**, a settlement that is not included is a settlement of property by a trustee of another trust to the extent to which, if the property were distributed at that time to a person and the person were at that time a beneficiary resident in New Zealand of the other trust, the distribution would have constituted beneficiary income of the beneficiary or a taxable distribution to the beneficiary:
- (d) for the purposes of **paragraph (b)**, a settlement that is not included is a settlement of property that, but for the settlement,—
 - (i) would have constituted income of the settlor; or
 - (ii) would have constituted income of the settlor if at the time of the settlement the settlor had been a person resident in New Zealand subject to the provisions of this Act:
- (e) for the purposes of **paragraph (b)**, a settlement that is not included is a settlement of property that, but for the settlement, would have constituted a dividend—
 - (i) for which the settlor would have been liable to deduct an amount by way of dividend withholding payment under **section NH 1** (Liability to make

- deduction in respect of foreign withholding payment dividend); or
- (ii) for which the settlor would, if the settlor were at the time of the settlement a person resident in New Zealand subject to the provisions of this Act, have been liable to deduct an amount by way of dividend withholding payment under **section NH 1** (Liability to make deduction in respect of foreign withholding payment dividend):
 - (f) for the purposes of **paragraph (b)**, a settlement that is not included is a settlement of property for which the settlor claims a deduction

corresponding income year, for a tax year, means an income year that ends in the period starting on 1 October in the tax year and ending on 30 September immediately after the tax year

cost—

- (a) in **subpart EB** (Valuation of trading stock (including dealer's livestock)), for trading stock, means costs incurred in the ordinary course of business to bring trading stock to its present location and condition, including purchase costs and costs of production, calculated under **sections EB 5 to EB 7** (which relate to standard valuation), **EB 13** (Cost for low-turnover traders), **EB 14** (Costs of manufacturing or producing trading stock), **EB 16** (Costs of acquiring trading stock), and **EB 20** (Valuing closing stock consistently):
- (b) is defined in **section ND 1J(3)** (Goods: value of benefit) for the purposes of that section:
- (c) is defined in **section ND 1P** (Definitions for **sections ND 1N and ND 10**) for the purposes of **sections ND 1N** (Goods at staff discount) and **ND 10** (Goods on special with staff discount)

cost price,—

- (a) in **subpart EC** (Valuation of livestock), does not include any amount of input tax in relation to the supply of livestock or trading stock to a person; and
- (b) in **section FC 6** (Effect of specified lease on lessor and lessee), and in the definition of **specified lease**, and for a

lease asset, means the amount of expenditure of a capital nature that is incurred, in acquiring and installing the lease asset,—

- (i) by the lessor; or
 - (ii) if the lessor under a lease acquires the lease asset as lessee under any other lease, by the person who is the lessor in the other lease; and
- (c) as a qualification on **paragraph (b)**, if, in carrying on a business in the income year in which the lease asset is acquired, the lessor acquires, manufactures, or assembles as trading stock, and distributes or sells, an asset of the same kind as the lease asset, the cost price for the lease asset is an amount equal to the normal price for which, at the start of the lease period, the lessor would have sold an asset of the same kind as the lease asset to the lessee; and
- (d) as another qualification on **paragraph (b)**, if the lessor has used the lease asset in deriving income before the lease is entered into, the cost price of the lease asset is equal to the capital expenditure incurred by the lessor in acquiring the lease asset, reduced by the total of the amounts of depreciation loss for which the lessor has been allowed deductions for the lease asset; and
- (e) as another qualification on **paragraph (b)**, if, for a lease asset and a lease entered into on or after 29 October 1983, an amount cannot be determined under any of **paragraphs (b) to (d)**, the cost price for the lease asset is an amount equal to the market price of the lease asset at the start of the term of the lease or, if there is no such market price or there are 2 or more, is an amount equal to the amount that, in the circumstances of the case, is reasonable, having regard to the nature of the lease asset and to the tenor of this definition

cost price option means the livestock valuation method specified in **section EC 20** (Cost price, market value, or replacement price)

counted associate is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

counted income has the meaning given to it by **section BD 1(4)** (Income, exempt income, excluded income, and counted income)

credit account continuity provisions means—

- (a) **section ME 5(1)(i)** (Debits arising to imputation credit account); and
- (b) **section MF 4(1)(e) and (3)(d)** (Credits and debits arising to branch equivalent tax account of company); and
- (c) **section MG 5(1)(i)** (Debits arising to dividend withholding payment account)

credit of tax is defined in **section GB 1(2C)** (Agreements purporting to alter incidence of tax to be void) for the purposes of that section

Crown Research Institute has the meaning given to it by section 12 of the Crown Research Institutes Act 1992

current value, for a group investment fund and for any day in any tax year, means the capital value to which all the following apply:

- (a) it has the meaning given to it by the Trustee Companies Act 1967 or the Public Trust Act 2001; and
- (b) it is the capital value of the investments and funds of the group investment fund; and
- (c) it is the capital value—
 - (i) last determined before that day under section 31 of the Trustee Companies Act 1967 or section 66 of the Public Trust Act 2001; or
 - (ii) determined on that day, if that is the day on which the capital value is so determined

date of transfer, in **subpart FF** (Matrimonial transfers), and in the definitions of **income year of transfer** and **tax year of transfer**, for property transferred under a matrimonial agreement, means the date on which the property was transferred

date the deposit ceases—

- (a) is defined in **section EH 34** (Some definitions used in main income equalisation scheme) for the purposes of the main income equalisation scheme;
- (b) is defined in **section EH 62** (Some definitions used in adverse event income equalisation scheme) for the purposes of the adverse event income equalisation scheme;
- (c) is defined in **section EH 80** (Some definitions used in thinning operations income equalisation scheme) for

the purposes of the thinning operations income equalisation scheme

debenture holder includes the owner of debenture stock

debentures includes debenture stock

deduction, for a person, means a deduction of the person under **section BD 2** (Deductions)

deemed rate of return method means the method of calculating FIF income or FIF loss in **section EX 45** (Deemed rate of return method)

deferred military pay is defined in **section CW 19(2)** (Deferred military pay for active service) for the purposes of that section

defined benefit fund means a superannuation scheme, registered under the Superannuation Schemes Act 1989, that must comply with section 15(1)(a) of that Act

dependent child, for a child and for a person, means a child—

- (a) whose care is primarily the responsibility of the person; and
- (b) who is being maintained as a member of the person's family; and
- (c) who is financially dependent on the person; and
- (d) who is not a child for whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989; and
- (e) who is not a child for whom a benefit is being paid under section 28 or 29 of the Social Security Act 1964

deposit—

- (a) is defined in **section EH 34** (Some definitions used in main income equalisation scheme) for the purposes of the main income equalisation scheme;
- (b) is defined in **section EH 62** (Some definitions used in adverse event income equalisation scheme) for the purposes of the adverse event income equalisation scheme;
- (c) is defined in **section EH 80** (Some definitions used in thinning operations income equalisation scheme) for the purposes of the thinning operations income equalisation scheme

depreciable intangible property has the meaning given to it by **section EE 52** (Depreciable intangible property)

depreciable property has the meaning given to it by **sections EE 6** (What is depreciable property) **and EE 7** (What is not depreciable property)

depreciating property means property for which a person—

- (a) is allowed a deduction for an amount of depreciation loss; or
- (b) may make a deduction on account of amortisation of expenditure under **section EZ 28** (Buying patent rights before 1 April 1993), **EZ 29** (Premium paid on land leased before 1 April 1993), or any other amortisation provision

depreciation loss—

- (a) means a loss that a person has in the circumstances set out in **section EE 1(2)** (What this subpart does); and
- (b) includes a deduction for depreciation that a person was allowed under an earlier Act

depreciation method has the meaning given to it by **section EE 57** (Other definitions)

depreciation percentage means a percentage set by the Commissioner under **section EC 35** (Setting depreciation percentages)

depreciation recovery income—

- (a) means income that a person has in the circumstances set out in **section EE 1(3)** (What this subpart does); and
- (b) includes income that a person had under the corresponding provision of an earlier Act

derived from New Zealand has the meaning given to it by **section OE 4** (Classes of income treated as having source in New Zealand)

designated group investment fund means—

- (a) a group investment fund whose investments and funds—
 - (i) are invested wholly in investments authorised by section 4(1)(a) to (j) of the Trustee Act 1956 (which is interpreted as if the Trustee Amendment Act 1988 had not been enacted); and
 - (ii) are not investments authorised solely by the instrument, if any, creating the trust under which the group investment fund is established; or

- (b) a group investment fund whose investments and funds are invested wholly in and for the purposes of the carrying on of a forestry business on land in New Zealand, to the extent to which the investments and funds are invested in the land that the group investment fund owned or otherwise held on 22 June 1983 for the purposes of the forestry business

designated sources is defined in **section HE 2(3)** (Group investment funds) for the purposes of that section

development is defined in **section DB 27** (Some definitions) for the purposes of **sections DB 26** (Research or development) and **DB 27**

diminished value, for an income year, means expenditure on an improvement described in **section DO 4** (Improvements to farming land), **DO 6** (Improvements to aquacultural business), or **DP 4** (Improvements to forestry land), reduced by the total of—

- (a) every amount allowed as a deduction for the expenditure to any person in any previous income year under this Act or an earlier Act; and
- (b) every amount allowed as a deduction for the expenditure to any person in the income year under this Act, except an amount allowed as a deduction in the income year under **section DO 4** (Improvements to farming land), **DO 6** (Improvements to aquacultural business), or **DP 4** (Improvements to forestry land)

diminishing value equivalent is defined in **section EC 32(6)** (Closing value of high-priced livestock) for the purposes of that section

diminishing value method has the meaning given to it by **section EE 57** (Other definitions)

diminishing value rate has the meaning given to it by **section EE 57** (Other definitions)

direct control interest has the meaning given to it by **section EX 5** (Direct control interests)

direct income interest has the meaning given to it by **section EX 9** (Direct income interests)

direct market value circumstance means a market value circumstance for a company other than a market value circumstance within the meaning of **paragraph (g)** of the definition of **market value circumstance**

direct market value interest means a market value interest of a person in a company other than a market value interest of the person in the company to the extent to which it is treated as arising only under **section OD 4(3)(d)** (Market value interests)

direct voting interest means a voting interest of a person in a company other than a voting interest of the person in the company to the extent to which it is treated as arising only under **section OD 3(3)(d)** (Voting interests)

director—

- (a) means—
- (i) a person occupying the position of director by whatever name called:
 - (ii) a person in accordance with whose directions or instructions the persons occupying the position of directors of a company are accustomed to act:
 - (iii) a person treated as being a director by any other provision of this Act:
 - (iv) in the case of an entity that does not have directors and that is treated as, or assumed to be, a company by a provision of this Act, any trustee, manager, or other person who acts in relation to the entity in the same way as a director would act, or in a similar way to that in which a director would act, were the entity a company incorporated in New Zealand under the Companies Act 1993:
- (b) is defined in **section HK 11(10)** (Liability for tax payable by company left with insufficient assets) for the purposes of that section

director election means an election made by the directors of a company under **section HG 3** (Director elections, and revocation of director elections)

disabled workshop payment is defined in **section CW 26(2)** (Allowances and benefits) for the purposes of that section

discontinuance profit means the amount calculated by a life insurer following the steps in **section EY 35** (Discontinuance profit for income year)

discontinuance profit formula means the formula in **section EY 36** (Discontinuance profit formula (existing policies)) or the formula in **section EY 37** (Discontinuance profit formula (new policies))

discount payment date is defined in **section EZ 3(3)** (Base premium for 1998–99 premium year under Accident Insurance Act 1998) for the purposes of that section

disposal,—

- (a) in **sections CB 23** (Disposal of timber or right to take timber), **CB 24** (Disposal of land with standing timber), and **GD 15** (Disposal of timber, or right to take timber, or standing timber to associated person), includes—
 - (i) the grant of a licence or easement:
 - (ii) the creation or grant of a right to take timber:
 - (iii) the creation of a forestry right, as defined in section 2 of the Forestry Rights Registration Act 1983, other than a right in favour of the proprietor:
 - (iv) the distribution by a company of timber or a right to take timber that is treated by **section GD 2** (Distribution of trading stock to shareholders of company) as if it were a sale of the timber or the right:
- (b) in **section CB 26** (Disposal of minerals), includes—
 - (i) the grant of a licence or easement:
 - (ii) the grant of a right to take minerals from land:
- (c) in **sections CT 1, CX 37, CZ 7, DT 2 to DT 4, DT 8 to DT 11, DT 18, DZ 6, DZ 8, EJ 12, EJ 13, EJ 15, and GC 12** (which relate to petroleum mining),—
 - (i) means the sale or transfer of any asset, voluntarily or involuntarily; and
 - (ii) includes the loss or destruction of any asset

disposal of control or income interests is defined in **section GC 9(7)** (Variations in control or income interests in foreign companies) for the purposes of that section

disposal of land is defined in **section CB 22** (Some definitions) for the purposes of **sections CB 5 to CB 21**

disposition of property, in the trust rules, and in the definitions of **settlor** and **superannuation contribution**, but not for a unit trust,—

- (a) means an assignment, conveyance, delivery, payment, settlement, transfer, or other alienation of property, whether at law or in equity; and
- (b) without limiting the generality of **paragraph (a)**, includes—
 - (i) the issue of shares in a company;
 - (ii) the creation of a trust;
 - (iii) the grant or creation of a charge, lease, licence, mortgage, power, servitude, or other estate, interest, or right, in or over property;
 - (iv) the abandonment, discharge, forfeiture, release, or surrender of a contract, debt, or thing in action, or of an estate, interest, power, or right in or over property; and for this purpose a debt, or any other estate, interest, or right, is treated as having been released or surrendered when it becomes irrecoverable or unenforceable by action or for any reason ceases to exist;
 - (v) the exercise of a general power of appointment in favour of a person other than the holder of the power; and
- (c) includes a disposition as defined in **paragraph (a) or (b)** by will or intestacy; and
- (d) does not include a disclaimer of an interest under a disposition made during life or by will; and
- (e) does not include a disclaimer of an interest under an intestacy

distinctive work clothing is defined in **section CX 27(2)** (Distinctive work clothing) for the purposes of that section

distribution, in **sections EW 58** (Income when debt forgiven to trustee), **EZ 36** (Forgiveness of debt), **HH 1** (Interpretation), **HZ 1** (Trust distributions), **LC 1(2)** (Credits in respect of tax paid in country or territory outside New Zealand), and **LC 4(7)** (Foreign tax credits: CFCs), in the trust rules, and in the definitions of **corpus**, **foreign trust**, **non-qualifying trust**, **qualifying trust**, and **taxable distribution**, for a beneficiary and for a trust, other than for a unit trust,—

- (a) means any of the following, whether it occurs directly or indirectly and by 1 transaction or a series of transactions,—

- (i) the vesting absolutely in interest in the beneficiary of any property of the trust; or
 - (ii) the payment to the beneficiary of any property of the trust; or
 - (iii) the application for the benefit of the beneficiary of any property of the trust; and
- (b) without limiting the generality of **paragraph (a)**, includes—
- (i) the disposal or making available by the trustee to the beneficiary of any property of the trust for less than market value, to the extent to which either is done; and
 - (ii) the provision of services by the trustee to the beneficiary for less than market value, to the extent to which this is done; and
 - (iii) the disposal or making available by the beneficiary to the trustee of any property for greater than market value, to the extent to which either is done; and
 - (iv) the provision of services by the beneficiary to the trustee for greater than market value, to the extent to which this is done; and
 - (v) a settlement by the trustee to or for the benefit of or on the terms of another trust, to the extent to which, if the amounts, property, or sums constituting the settlement were distributed at that time to a person who was at that time a beneficiary resident in New Zealand, the amounts, property, or sums would have constituted beneficiary income of the beneficiary or a taxable distribution to the beneficiary; and
 - (vi) in **sections EW 58** (Income when debt forgiven to trustee) and **EZ 36** (Forgiveness of debt), a settlement by the trustee of a trust, to the extent to which the settlement is to or for the benefit of or on the terms of another trust and the amounts, property, or sums constituting the settlement were from amounts forgiven and treated as paid in the cases described in **section EW 54(1) or (2)** (Consideration when debt forgiven for natural love and affection) or **EZ 36(1)** (Forgiveness of debt); and

- (c) for the purposes of **paragraphs (a) and (b)**, the fact that the beneficiary is or will become a beneficiary under the terms of the trust does not constitute the giving or receiving of any value

dividend—

- (a) is defined in **sections CD 2 to CD 43** (which relate to income from equity) for the purposes of this Act, except for the definition of **investment society dividend**:
- (b) for the purposes of resident withholding income and in the RWT rules, does not include any dividend of the kind listed in **section NF 1(2)(b)(i) to (viii)** (Application of RWT rules), as subject to the proviso to that subsection:
- (c) in the NRWT rules,—
- (i) includes a dividend withholding payment credit attached to the dividend; and
 - (ii) includes an amount paid to a shareholder that is a company and a related person under **section CD 34(14) to (16)** (Available capital distribution amount) of the company paying the amount, if the amount is excluded from dividend treatment generally only as a result of **sections CD 18(2)(b)** (Capital distributions on liquidation) and **CD 34** (Available capital distribution amount); and
 - (iii) does not include the amount of any imputation credit attached to the dividend:
- (d) in **subpart LE** (Non-resident investors),—
- (i) includes an amount paid to a shareholder that is a company and a related person under **section CD 34(14) to (16)** (Available capital distribution amount) of the company paying the amount, if the amount is excluded from dividend treatment generally only as a result of **sections CD 18(2)(b)** (Capital distributions on liquidation) and **CD 34** (Available capital distribution amount); and
 - (ii) does not include any non-cash dividend; and
 - (iii) does not include any dividend derived by a life insurer from a company treated as resident in New Zealand because of the Commissioner granting an application under **section EY 48** (Non-resident life insurer may become resident):
- (e) in **sections GC 24** (Application of specific imputation provisions to consolidated groups) and **ME 15 to ME 24** (which

relate to policyholder credit accounts), **subpart MF** (Branch equivalent tax accounts), **and sections MG 14 to MG 16** (which relate to consolidated groups) **and NH 6** (Application of specific dividend withholding payment provisions to consolidated groups), in the dividend withholding payment rules and the imputation rules, and in the definitions of **benchmark dividend**, **combined imputation and dividend withholding payment ratio**, **company dividend statement**, **dividend withholding payment**, **dividend withholding payment credit**, **dividend withholding payment ratio**, **excess credit amount**, **foreign withholding payment dividend**, **imputation credit**, **imputation ratio**, **pay (paragraph (a))**, **shareholder dividend statement**, and **subsequent dividend**, does not include—

- (i) any dividend paid on a specified preference share to which **section FZ 1** (Deduction for dividends paid on certain preference shares) applies:
 - (ii) any amount treated as a dividend under **section GD 3** (Payment of excessive salary or wages, or allocation of excessive share of profits or losses, to relative employed by or in partnership with taxpayer) **or GD 5** (Excessive remuneration by close company to shareholder, director, or relative) or the proviso to **section HF 1(5)** (Profits of mutual associations in respect of transactions with members):
- (f) in **subpart LF** (Underlying foreign tax credits) **and sections NH 1 to NH 3** (which relate to dividend withholding payments) **and NH 5** (Dividend withholding payments and consolidated groups), and in the definitions of **eligible accounting year** and **excess credit amount**, includes any dividend paid on a specified preference share to which **section FZ 1** (Deduction for dividends paid on certain preference shares) applies

dividend withholding payment means the amount payable by a company under **section NH 2** (Amount of dividend withholding payment to be deducted) for foreign withholding payment dividends paid to the company during any quarter

dividend withholding payment account means the account required to be maintained by a company that elects to maintain such an account under **section MG 2** (Company may elect to maintain dividend withholding payment account)

dividend withholding payment account company means a company that, having made an election under **section MG 2(1)** (Company may elect to maintain dividend withholding payment account), is required by **section MG 2(3)** to maintain a dividend withholding payment account

dividend withholding payment account return is defined in **section NF 8(4)** (Resident withholding tax deductions from dividends deemed to be dividend withholding payment credits) for the purposes of that section

dividend withholding payment credit means the amount attached to a dividend under **section MG 6** (Company may attach dividend withholding payment credit to dividend)

dividend withholding payment deduction means the deduction that **section NH 1** (Liability to make deduction in respect of foreign withholding payment dividend) requires to be made for a foreign withholding payment dividend paid to a company

dividend withholding payment penalty tax means tax payable under section 140C of the Tax Administration Act 1994

dividend withholding payment ratio means an amount calculated using the formula—

$$\frac{a}{b}$$

where—

- a is the amount of any dividend withholding payment credit attached to a dividend (the amount is zero if no such credit is attached)
- b is the amount of the dividend paid (exclusive of any imputation credit or dividend withholding payment credit)

dividend withholding payment rules means—

- (a) the following provisions:
 - (i) **section GC 25** (Avoidance of dividend withholding payments):

- (ii) **section GC 27** (Arrangement to defeat application of dividend withholding payment account provisions):
 - (iii) **section LD 8** (Credit of tax for dividend withholding payment credit in hands of shareholder):
 - (iv) **section LD 9** (Refund to non-resident or exempt shareholders):
 - (v) **subpart LF** (Underlying foreign tax credits):
 - (vi) **section MD 4** (Application of income tax or dividend withholding payments not refunded):
 - (vii) **sections MG 1 to MG 12** (which relate to dividend withholding payment accounts):
 - (viii) **subpart MZ** (Terminating provisions):
 - (ix) **sections NH 1 to NH 4** (which relate to dividend withholding payments):
 - (x) **section OB 6(1)(d) and (e)** (Meaning of income tax); and
- (b) sections 30, 68, 71, 72, 102 to 104, 139B, 140C, 140D(1) and (3), 181, and 185 and Part 7 of the Tax Administration Act 1994

double tax agreement has the meaning given to it by **section BH 1** (Double tax agreements)

dual resident company is defined in **section IG 2(11)** (Net loss offset between group companies) for the purposes of that section

early balance date has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

economic rate has the meaning given to it by **section EE 57** (Other definitions)

economic unit is defined in **section CB 19(3)** (Farmland exclusion from **sections CB 10 and CB 11**) for the purposes of that section

education grant is defined in **section CF 1(2)** (Benefits, pensions, compensation, and government grants) for the purposes of that section

effective interest, for a person or a company and for any time or any income year, means, subject to **section HG 2** (Determination of effective interest in company),—

- (a) the person's voting interest in the company at the time or for the income year; or

- (b) if there is a market value circumstance for the company at the time or at any time during the income year, the average of—
 - (i) the person's voting interest in the company at the time or for the income year; and
 - (ii) the person's market value interest in the company at the time or for the income year

elected period is defined in **section KD 5(1)** (Credit of tax by instalments) for the purposes of **subpart KD** (Tax credits for family support and family plus)

election day worker means a person to whom all the following apply:

- (a) the person is engaged as a Deputy Returning Officer, poll clerk, interpreter, or usher, or for any other purpose, for—
 - (i) an election or poll held under the provisions of the Electoral Act 1993 or the Local Electoral Act 2001 or the Local Restoration Polls Act 1990; or
 - (ii) an election or poll to which any of the provisions of the Electoral Act 1993 or the Local Electoral Act 2001 or the Local Restoration Polls Act 1990 applies; or
 - (iii) an election or poll held or conducted simultaneously with and in the same premises as an election or poll referred to in **subparagraph (i) or (ii)**; and
- (b) the person is paid by the authority controlling the election or poll; and
- (c) the person's payment is exclusively for work done or services rendered immediately before, on, or immediately after the day on which the election or poll is held or taken

electronic format means the format and the electronic means by which a return or particulars that are filed electronically are provided

eligible accounting year means, for a person and for a dividend paid by a company, an accounting year of the company that is—

- (a) an accounting year of the company, if the person has, at all times during the accounting year, a sufficient interest in the company:
- (b) 1 of the following:

- (i) the accounting year in which the dividend is paid; or
 - (ii) the accounting year of the company immediately before the accounting year in which the dividend is paid; or
 - (iii) an accounting year immediately before an eligible accounting year:
- (c) if the company is a low tax jurisdiction company at any time during the accounting year,—
- (i) an accounting year ending on or after 28 September 1993; or
 - (ii) an accounting year ending on or after 1 April 1988, in which the company is at all times a controlled foreign company; or
 - (iii) an accounting year, if **section LF 6(3)** (Procedures with respect to underlying foreign tax credit) applies for the company and the accounting year:
- (d) if an accounting year starts before the commencement date, an accounting year for which the person has filed details under **section LF 6(1)** (Procedures with respect to underlying foreign tax credit)

eligible company means, at any time, a company that, at the time,—

- (a) is resident in New Zealand; and
- (b) is not a company that, under a double tax agreement, is treated as not being resident in New Zealand for the purposes of the agreement; and
- (c) is not a loss attributing qualifying company; and
- (d) is not a company that derives only exempt income, the words “a company that derives only exempt income”—
 - (i) including a local authority that is not a local authority trading enterprise; and
 - (ii) not including a company whose income is exempt under **sections CW 9 to CW 11** (which relate to income from equity)

eligible period, for a person, means a period forming a part or the whole of a specified period, during which—

- (a) the person is a qualifying person for each day; and
- (b) another person does not start or cease to be a spouse of the person on any day; and

- (c) the person does not start or cease to be the principal caregiver of a dependent child other than on the first or, as applicable, the last day; and
- (d) a child for whom the person is the principal caregiver does not cease to be a dependent child other than on the first or, as applicable, the last day

emergency call has the meaning given to it by **section CX 29** (Meaning of emergency call)

employee—

- (a) means a person who receives or is entitled to receive a source deduction payment:
- (b) in **sections CW 13** (Expenditure on account, and reimbursement, of employees) and **CW 14** (Allowance for additional transport costs),—
 - (i) means a person who receives or is entitled to receive a source deduction payment; and
 - (ii) includes a person to whom **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies) applies:
- (c) in the fringe benefit tax rules, and in the definition of **shareholder-employee (paragraph (b))**, means a person who (whether in the past, present, or future) receives or is entitled to receive a source deduction payment, but this reference to a source deduction payment does not include—
 - (i) a payment described in the definition of **salary or wages** in any of **paragraph (b)(iii) or (vii) to (xiii)**; or
 - (ii) a withholding payment specified in Part E of the Income Tax (Withholding Payments) Regulations 1979 for which the person is liable for income tax under **section BB 1** (Imposition of tax):
- (d) is defined in **section DC 14** (Some definitions) for the purposes of **sections DC 11 to DC 14** (which relate to share purchase schemes):
- (e) in **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies), includes a director for the purposes of **sections EA 3** (Prepayments), **EA 4** (Deferred payment of employment income), and **EI 7** (Matching rule for employment income of shareholder-employee):
- (f) for an employer, means an employee of the employer

employee share loan has the meaning given to it by **section CX 30** (Meaning of employee share loan)

employer—

- (a) means a person who pays or is liable to pay a source deduction payment:
- (b) includes,—
 - (i) for an unincorporated body of persons other than a partnership, the manager or other principal officer:
 - (ii) for a partnership, each partner:
 - (iii) for the estate of a deceased person, a trust, a company in liquidation, an assigned estate, or for any other property vested or controlled in a fiduciary capacity, each person in whom the property has become vested or to whom control of the property has passed:
 - (iv) for payments of New Zealand superannuation, veterans' pensions, and income-tested benefits, the chief executive of the department currently responsible for administering the Social Security Act 1964:
- (c) in the fringe benefit tax rules, means a person who pays or is liable to pay (whether in the past, present, or future) a source deduction payment, but this reference to a source deduction payment does not include—
 - (i) a payment described in the definition of **salary or wages** in any of **paragraph (b)(iii) or (vii) to (xiii)**; or
 - (ii) a withholding payment specified in Part E of the Income Tax (Withholding Payments) Regulations 1979:
- (d) in the fringe benefit tax rules, includes—
 - (i) for an unincorporated body of persons other than a partnership, the manager or other principal officer:
 - (ii) for a partnership, each partner:
 - (iii) for the estate of a deceased person, a trust, a company in liquidation, an assigned estate, or for any other property vested or controlled in a fiduciary capacity, each person in whom the property has become vested or to whom control of the property has passed:
 - (iv) the Crown:

- (e) is defined in **section ND 1Q(6)** (Unclassified benefits) for the purposes of that section:
 - (f) for an employee, means the employer of the employee
- employer monthly schedule** means a form an employer must provide to the Commissioner in either manual format or in electronic format showing—
- (a) the name and tax file number of the employer; and
 - (b) the name of every person who was an employee of the employer at any time during the period to which the employer monthly schedule relates; and
 - (c) if supplied to the employer, the tax file number of each employee to whom **paragraph (b)** refers; and
 - (d) the tax code of each employee to whom a source deduction payment that is not an extra pay is made; and
 - (e) for each employee in the month to which the schedule relates, the amount of gross earnings, the total amount of tax deductions made, and the amount of earnings not liable to the earner premium; and
 - (f) if applicable, particulars of child support and student loan deductions made; and
 - (g) in the month in which an employee starts, the date on which they started to be an employee of the employer; and
 - (h) in the month in which an employee ceases, the date on which they ceased to be an employee of the employer; and
 - (i) the identity of each employee who received an extra pay at a rate less than the rate specified in **schedule 19, clause 8(b)** (Basic tax deductions); and
 - (j) other particulars required by the Commissioner for a class of employer

employer's contributions to superannuation savings means—

- (a) specified superannuation contributions made on or after 1 April 2000 other than—
 - (i) those that are treated as salary and wages under **section NE 2A** (Employee election that specified superannuation contributions be treated as salary or wages); or
 - (ii) those on which specified superannuation contribution withholding tax has been paid at the rate

specified in **schedule 1, part A, clause 10(a)** (Basic rates of income tax and specified superannuation contribution withholding tax); and

- (b) any return on those specified superannuation contributions; and
- (c) reserves, that is, specified superannuation contributions made on or after 1 April 2000 that do not vest in a member of the superannuation fund and any return on the specified superannuation contributions, as follows:
 - (i) for a superannuation fund with 10 or more unassociated members, reserves that have been allocated to a member of the superannuation fund, other than those allocated to an account of the member's contributions for smoothing investment returns; or
 - (ii) for all other superannuation funds, reserves

employer's premises is defined in **section CX 21(2)** (Benefits provided on premises) for the purposes of that section

employer's superannuation contribution means a superannuation contribution provided by an employer for the benefit of an employee or employees of the employer

employing company is defined in **section DC 14** (Some definitions) for the purposes of **sections DC 11 to DC 14** (which relate to share purchase schemes)

employment—

- (a) in the fringe benefit tax rules, means the activity that entitled, entitles, or will entitle a person performing it to receive a source deduction payment, but this reference to a source deduction payment does not include—
 - (i) a payment described in the definition of **salary or wages** in any of **paragraph (b)(iii) or (vii) to (xiii)**; or
 - (ii) a withholding payment specified in Part E of the Income Tax (Withholding Payments) Regulations 1979:
- (b) in **subpart KD** (Tax credits for family support and family plus), and in the definitions of **full employment, full-time earner, and fully employed person,—**
 - (i) means the activity that entitles or will entitle a person performing it to receive a source deduction payment, but this reference to a source deduction payment does not include a payment

described in the definition of **salary or wages** in any of **paragraph (b)(iii), (vii), and (viii)** or a withholding payment specified in Part E of the Income Tax (Withholding Payments) Regulations 1979; and

- (ii) includes non-activity on a day by a person who receives a source deduction payment for the day, because the person is treated as having performed the activity on the day to an extent determined by the Commissioner, having regard to the day, the pay period in which it occurs, the circumstances giving rise to the source deduction payment, and any other circumstances that the Commissioner considers relevant; and
- (iii) includes activity on a day by a person who receives a source deduction payment for the day even though their activity is less than the activity that would normally give rise to the source deduction payment, because the person is treated as having performed the activity on the day to an extent determined by the Commissioner, having regard to the day, the pay period in which it occurs, the circumstances giving rise to the source deduction payment, and any other circumstances that the Commissioner considers relevant:

- (c) is defined in **section KD 3(1)** (Calculation of family tax credit) for the purposes of that section

employment income means an amount that is income under **section CE 1** (Amounts derived in connection with employment)

employment limitation has the meaning given to it by **section DA 2(4)** (General limitations)

employment-related loan means a loan that is a fringe benefit

entitlement period means the first 56 days after the date of a dependent child's birth

established activity is defined in **section IE 2(8)** (Specified activity net losses) for the purposes of that section

estate, for land,—

- (a) means an estate in the land, whether legal or equitable, and whether vested or contingent, in possession, reversion, or remainder; and
- (b) includes a right, whether direct or through a trustee or otherwise, to—
 - (i) the possession of the land; or
 - (ii) the receipt of the rents or profits from the land; or
 - (iii) the proceeds of the disposal of the land; and
- (c) does not include a mortgage

estimated residual market value,—

- (a) for an item of depreciable property, has the meaning given to it by **section EE 57** (Other definitions):
- (b) for high-priced livestock, means its market value at the end of its estimated useful life, estimated reasonably as at the date of acquisition and based upon an assumption of normal and reasonable maintenance over its estimated useful life

estimated useful life,—

- (a) for an item of depreciable property, has the meaning given to it by **section EE 53** (Estimated useful life):
- (b) for high-priced livestock, means the period over which the livestock might reasonably be expected to be useful in deriving income or carrying on a business in New Zealand, taking into account—
 - (i) the passage of time, likely wear and tear, exhaustion, and obsolescence; and
 - (ii) an assumption of normal and reasonable maintenance

excepted financial arrangement—

- (a) has the meaning given to it by **section EW 12** (What is an excepted financial arrangement?); and
- (b) has the meaning given to it by **section EZ 45** (Definitions)

excess credit amount means an amount calculated under **section MG 10(2)** (Dividend with both imputation credit and dividend withholding payment credit attached) for a dividend with a combined imputation and dividend withholding payment ratio exceeding the ratio stated in **section MG 10(1)**

excess expenditure—

- (a) is defined in **section CZ 6(2)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:
- (b) is defined in **section DZ 7(6)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

excess retention tax means excess retention tax imposed under the Income Tax Act 1976

exchange variation is defined in **section CZ 10(5)** (Exchange variations on 8 August 1975) for the purposes of that section

excluded depreciable property has the meaning given to it by **section EE 54** (Excluded depreciable property)

excluded income has the meaning given to it by **section BD 1(3)** (Income, exempt income, excluded income, and counted income)

excluded option means, for a company, an option to acquire or dispose of a share in the company if—

- (a) the directors of the company did not know and could not reasonably be expected to know that the option had been granted; or
- (b) neither the grantor of the option nor any person associated with the grantor of the option at the time the option is granted holds a share in the company over which the option is granted at the time the option is granted, whether directly or indirectly, but this paragraph does not apply in a case in which the grantor of the option is the company; or
- (c) the option is granted on arm's length terms, without the grant having a purpose or effect of defeating the intent and application of any provision of this Act whose application is dependent upon the measurement of voting and market value interests, and the holder of the option does not have, because of it, any right to vote or participate in any shareholder decision-making, except to the extent of any such right that—
 - (i) arises only in circumstances in which the position of the holder of the option in relation to it may be altered to the holder's detriment; and

- (ii) is granted to the holder of the option for the purpose of assisting the holder to prevent the alteration; and
 - (iii) at the time of the issue of the option, is not expected to arise; or
- (d) the price payable to acquire the share on the exercise of the option is equal to or not materially different from the market value of the share at the date of exercise, and the holder of the option does not have, because of it, any right to vote or participate in any shareholder decision-making, except to the extent of any such right that—
 - (i) arises only in circumstances in which the position of the holder of the option in relation to it may be altered to the holder's detriment; and
 - (ii) is granted to the holder of the option for the purpose of assisting the holder to prevent the alteration; and
 - (iii) at the time of the issue of the option, is not expected to arise; or
- (e) the share is an excluded security, subject to **section OD 6** (Modifications to measurement of voting and market value interests in case of credit account continuity provisions) in the case of the credit amount continuity provisions; or
- (f) the option—
 - (i) relates to a pre-1991 budget security; and
 - (ii) was itself granted before 8.00 pm New Zealand Standard Time on 30 July 1991 (**specified time**), or was granted under a binding contract entered into before the specified time no term of which is altered at any time after the specified time; and
 - (iii) is not an option any term of which is altered at any time after the specified time (whether under a provision for roll-over or extension or under an option held at the specified time by the option holder or the grantor of the option, or both, or any other person, or otherwise), except when the term is altered under a binding contract entered into before the specified time no term of which is altered at any time after the specified time

excluded security means a fixed rate share issued by a company or a debenture issued by a company, if **section FC 2**

(Interest on debentures issued in substitution for shares) applies to the debenture and **section FC 1** (Floating rate of interest on debentures) does not (or does only because of **section FC 2(2)**), when the holder of the share or debenture does not have, because of it, any right to vote or participate in any shareholder decision-making, except to the extent of any such right that—

- (a) arises only in circumstances in which the position of the holder of the share or debenture may be altered to the holder's detriment; and
- (b) is granted to the holder of the share or debenture for the purpose of assisting the holder to prevent the alteration; and
- (c) at the time of the issue of the share or debenture, is not expected to arise

exempt income has the meaning given to it by **section BD 1(2)** (Income, exempt income, excluded income, and counted income)

exempt income limitation has the meaning given to it by **section DA 2(3)** (General limitations)

exempt interest means interest that is—

- (a) payable for a debt entered into in accordance with generally accepted commercial practice for the purchase of goods or services, if the purchase is made in the ordinary course of the purchaser's taxable activity; or
- (b) payable under a hire purchase agreement (as defined in section 2 of the Hire Purchase Act 1971); or
- (c) exempt income under **section CW 8** (Money lent to government of New Zealand) or **CW 46** (Exemption under other Acts); or
- (d) payable under a specified lease or a finance lease; or
- (e) payable for bonus bonds or Post Office bonus bonds (as each of those terms is defined in section 2 of the Post Office Bank Act 1987); or
- (f) payable on any overpaid levy under section 173 of the Injury Prevention, Rehabilitation, and Compensation Act 2001

existing farmer means a person to whom both the following apply:

- (a) the person conducts in an income year 1 or more of the specified activities described in **paragraphs (a) to (i)** of the definition of **specified activity**; and
- (b) the person's livelihood and the person's sole or principal source of income is constituted, throughout the conduct of the specified activity or the specified activities in the income year, by the conduct of the specified activity or the specified activities

expenditure is defined in **section DD 2(7)** (Limitation rule) for the purposes of that section

expenditure on account of an employee has the meaning given to it by **section CE 5** (Meaning of expenditure on account of an employee)

exploration permit has the meaning given to it by section 2 of the Crown Minerals Act 1991

exploratory material means anything acquired with exploratory well expenditure or prospecting expenditure

exploratory well means a well in a permit area, the purpose of which is to—

- (a) locate petroleum; or
- (b) confirm the existence, non-existence, quantity, or composition of petroleum; or
- (c) ascertain whether petroleum is recoverable in commercial quantities

exploratory well expenditure—

- (a) means expenditure incurred by a petroleum miner in planning, drilling, testing, completing, and abandoning an exploratory well; and
- (b) does not include residual expenditure

extra pay—

- (a) means a payment that—
 - (i) is made to a person in connection with their employment; and
 - (ii) is not one regularly included in the salary or wages payable to the person for a pay period; and
 - (iii) is not overtime pay; and
 - (iv) is made in a lump sum; and
 - (v) is made in 1 lump sum or in 2 or more instalments; and

- (vi) is made for a period of time or otherwise than for a period of time; and
- (b) includes a payment of the kind described in **paragraph (a)** made—
 - (i) as a bonus, gratuity, or share of profits; or
 - (ii) as a redundancy payment; or
 - (iii) when the person retires from employment; or
 - (iv) by a retrospective increase in salary or wages, but the payment is included only to the extent to which the payment accrues from the start of the increase until the start of the first pay period in which the increase is included in salary or wages, and to the extent to which, when a week ends with a Saturday, the total of the increase for the week, and of the salary or wages for the week excluding the increase, and of any other salary or wages that the person earns for the week, is more than \$4; and
- (c) includes income that a person derives under **section CE 9** (Restrictive covenants) or **CE 10** (Exit inducements) if the income was derived in connection with an employment relationship between the person and the person who paid the income; and
- (d) does not include a payment of exempt income

family credit abatement means,—

- (a) for the purpose of calculating a component of an interim instalment of credit of tax for a period under **section KD 5** (Credit of tax by instalments), the component of the instalment given by **section KD 5B(5)** (Rates for interim instalments for period beginning on or after 1 July 1998):
- (b) for any other purpose, the component of the subpart KD credit given by **section KD 2(6)** (Calculation of subpart KD credit)

family plus means the total of—

- (a) the child tax credit for an eligible period calculated under **section KD 2(4)** (Calculation of subpart KD credit) after abatement (if any) under **section KD 2(6)**; and
- (b) the parental tax credit for an eligible period calculated under **section KD 2(5)** (Calculation of subpart KD credit) after abatement (if any) under **section KD 2(6)**; and

- (c) the family tax credit calculated under **section KD 3** (Calculation of family tax credit)

family support credit means,—

- (a) for the purpose of calculating a component of an interim instalment of credit of tax for a period under **section KD 5** (Credit of tax by instalments), the component of the instalment given by **section KD 5B(3)** (Rates for interim instalments for period beginning on or after 1 July 1998):
- (b) for any other purpose, the component of the subpart KD credit given by **section KD 2(3)** (Calculation of subpart KD credit)

family tax credit means,—

- (a) for the purpose of calculating a component of interim instalment of credit of tax for a period under **section KD 5** (Credit of tax by instalments), the component of the instalment given by **section KD 5B(6)** (Rates for interim instalments for period beginning on or after 1 July 1998):
- (b) for any other purpose, the credit of tax given by **section KD 3** (Calculation of family tax credit)

farm ownership requirements means farm ownership requirements as defined in the Farm Ownership Savings Act 1974

farmer is defined in **section EH 3(1)(a)** (Persons to whom main income equalisation scheme applies) for the purposes of the main income equalisation scheme

farm-in expenditure means expenditure that a farm-in party under a farm-out arrangement agrees that they will incur

farm-out arrangement—

- (a) means an arrangement between a petroleum miner (**farm-out party**) and a person (**farm-in party**) under which the farm-in party agrees that they will incur expenditure in doing work or paying for work done in or for the permit area of the farm-out party's petroleum permit, after the arrangement is made, and, in return, they—
- (i) acquire an interest in the farm-out party's petroleum permit; or
- (ii) receive a right or option to acquire an interest in the farm-out party's petroleum permit; or

- (iii) become entitled in another way to acquire an interest in the farm-out party's petroleum permit; or
 - (iv) become entitled to a direct or indirect interest in petroleum from the permit area of the farm-out party's petroleum permit; or
 - (v) become entitled to a direct or indirect interest in the profits, however measured, from petroleum from the permit area of the farm-out party's petroleum permit; or
 - (vi) become entitled to a direct or indirect right to reimbursement from petroleum from the permit area of the farm-out party's petroleum permit; or
 - (vii) become entitled to a direct or indirect right to reimbursement from the profits, however measured, from petroleum from the permit area of the farm-out party's petroleum permit; or
 - (viii) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to petroleum from the permit area of the farm-out party's petroleum permit; or
 - (ix) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to the profits, however measured, from petroleum from the permit area of the farm-out party's petroleum permit:
- (b) is defined in **section CZ 6(2)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:
 - (c) is defined in **section DZ 7(6)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

FBT rules has the same meaning as **fringe benefit tax rules**

feature film means a film that—

- (a) is produced mainly for exhibition in a cinema; and
- (b) is exhibited in 35mm gauge; and
- (c) has a continuous running time of no less than 75 minutes

fee is defined in **section ND 1K(2)** (Services: value of benefit) for the purposes of that section

FIF means a foreign investment fund as defined in **section EX 29** (Foreign investment funds)

FIF income has the meaning given to it by **section CQ 5** (When FIF income arises)

FIF loss has the meaning given to it by **sections DN 6** (When FIF loss arises) **and DN 7** (Calculation of FIF loss)

FIF net loss, for a person and for an income year in which the person has a FIF loss, means the part of the FIF loss that the person is denied as a deduction because of **sections DN 8** (Ring-fencing cap on deduction: not branch equivalent method) **and DN 9** (Ring-fencing cap on deduction: branch equivalent method), but must instead deal with under **Part I** (Treatment of net losses)

FIF rules means **sections EX 29 to EX 60** (which relate to foreign investment funds)

fifteen percent capital reduction is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

fifteen percent interest reduction is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

filing taxpayer means a person, other than—

- (a) a person who is a non-filing taxpayer for the applicable tax year:
- (b) a person that is an unincorporated body of persons, if section 42 of the Tax Administration Act 1994 applies to require the members of the body to file separate returns of income for the applicable tax year

film, except in **section CC 10** (Royalties),—

- (a) means a recording on any medium from which a moving image may by any means be produced; and
- (b) includes a part of any such recording

film income means income of a person under **section CC 11** (Films)

film production expenditure—

- (a) means—
 - (i) an expenditure or loss (other than a loss of a capital nature) incurred in producing a film:
 - (ii) an amount of depreciation loss on property used in producing the film:

- (iii) an amount of depreciation loss from disposing of depreciable property used in producing the film allowed under **section EE 40** (Effect of disposal or event); and
- (b) does not include an expenditure incurred—
 - (i) in acquiring an asset for which a deduction for an amount of depreciation loss is allowed:
 - (ii) in acquiring a film right after the film is completed:
 - (iii) directly in marketing or selling a film

film reimbursement scheme has the meaning given to it by **section DS 6** (Meaning of film reimbursement scheme)

film right means a right or interest of any kind (including a future or contingent right or interest) in or to—

- (a) a film; or
- (b) any tangible or intangible property in, or relating to, the film; or
- (c) any tangible or intangible property in, or relating to, other assets relating to the film; or
- (d) film income

final instalment means the last instalment due in a transitional year

finance lease means a lease that—

- (a) is of a lease asset; and
- (b) provides for 1 of the following:
 - (i) the ownership of the lease asset to be transferred to the lessee or an associate of the lessee at the end of the term of the lease; or
 - (ii) the lessee or an associate of the lessee to have the option of acquiring the lease asset for an amount that is likely to be substantially lower than the lease asset's market value on the date of acquisition; or
 - (iii) the term of the lease to be more than 75% of the lease asset's estimated useful life as that term is used in the formula in **section EE 25(4)** (Economic rate); and
- (c) is entered into on or after 20 May 1999

financial arrangement—

- (a) has the meaning given to it by **section EW 10** (What is a financial arrangement?); and

- (b) has the meaning given to it by **section EZ 45** (Definitions) **financial arrangements rules** has the meaning given to it by **section EW 1(2)** (What this subpart applies to)

Financial Reporting Standard No 13 1995 (Accounting for Research and Development Activities) is defined in **section DB 27** (Some definitions) for the purposes of **sections DB 26** (Research or development) **and DB 27**

financial statements, in **subpart EB** (Valuation of trading stock (including dealer's livestock)) **and section ME 5** (Debits arising to imputation credit account), has the meaning given to it by section 8 of the Financial Reporting Act 1993, but the reference to an "entity" and to a "reporting entity" is to be read as a reference to a taxpayer

financially independent means—

- (a) in full employment; or
- (b) in receipt of a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998 (SR 1998/277) or any regulations in substitution for those regulations; or
- (c) in receipt of payments under a Government-assisted scheme that the chief executive of the department currently responsible for administering the Social Security Act 1964 considers analogous to a benefit payable under Part 1 of the Social Security Act 1964; or
- (d) in receipt of a benefit, as defined in section 3 of the Social Security Act 1964, payable under Part 1 of that Act

first business day means—

- (a) the first day in a tax year on which a provisional taxpayer derives income or incurs expenditure as a result of carrying on a taxable activity, if the taxpayer is not a natural person; and
- (b) the day following the last day in a tax year on which a provisional taxpayer derived income from employment, if the taxpayer is a natural person

first instalment date means—

- (a) the 7th day of the month specified in **schedule 13, part A** (Months for payment of provisional tax and terminal tax) for payment of the first instalment of provisional tax for a tax year, unless January is specified; and
- (b) 15 January, if January is specified

first PAYE period means the period starting on the 1st day of a month and ending with the 15th day of the month

first publication is defined in **section EI 6(6)** (Assigning or granting copyright) for the purposes of that section

fisher has the meaning given to it by **section EH 3(1)(b)** (Persons to whom main income equalisation scheme applies)

fishing boat is defined in **section EJ 2(6)** (Spreading forward of deductions for repairs to fishing boats) for the purposes of that section

fishing business—

- (a) is defined in **section EH 34** (Some definitions used in main income equalisation scheme) for the purposes of the main income equalisation scheme:
- (b) is defined in **section EJ 2(6)** (Spreading forward of deductions for repairs to fishing boats) for the purposes of that section

fishing vessel ownership requirements means fishing vessel ownership requirements as defined in the Fishing Vessel Ownership Savings Act 1977

fixed establishment—

- (a) means a fixed place of business in which substantial business is carried on by a person; and
- (b) includes—
 - (i) a branch, factory, shop, or workshop in which, in each case, substantial business is carried on; and
 - (ii) a mine, oil well, quarry, or other place of natural resources subject to exploitation; and
 - (iii) an agricultural, forestry, or pastoral property; and
- (c) does not include—
 - (i) the use of facilities solely for the purpose of the delivery, display, or storage of goods or merchandise belonging to a business; or
 - (ii) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information or for advertising for business

fixed life intangible property has the meaning given to it by **section EE 57** (Other definitions)

fixed principal financial arrangement—

- (a) means a financial arrangement other than a variable principal debt instrument:
- (b) is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

fixed rate share—

- (a) in **sections CD 14** (Returns of capital: off-market share cancellations) and **GD 13** (Cross-border arrangements between associated persons), and in the definitions of **excluded security** and **pre-1991 budget security**, means a share issued by a company if the only dividend payable on the share (disregarding any dividend payable on the issue of the share) is payable at a rate that—
 - (i) is described in **paragraph (b) or (c) or (d)**; and
 - (ii) is not set with a purpose and does not have an effect of defeating the intent and application of any provision of this Act whose application is dependent upon the measurement of voting and market value interests:
- (b) for the purposes of **paragraph (a)(i)**, the rate is a specific fixed percentage of the amount subscribed for the issue of the share:
- (c) for the purposes of **paragraph (a)(i)**, the rate is a percentage of the amount subscribed for the issue of the share that is determined by a fixed relationship to commodity, economic, financial, or industrial indices, or to banking rates or general commercial rates of interest:
- (d) for the purposes of **paragraph (a)(i)**, the rate is a percentage that could be of a kind referred to in **paragraph (b) or (c)** but for any variation in the rate of dividend that may occur only—
 - (i) by a fixed relationship to a rate of income tax; or
 - (ii) as may be necessary to compensate the shareholder for a default on the part of the paying company or expenditure or loss suffered by the shareholder, or a person associated with the shareholder, through holding the share; or
 - (iii) by a combination of the factors in **subparagraphs (i) and (ii)**:
- (e) is defined in **section LF 2(3)** (Granting of underlying foreign tax credit) for the purposes of that section

flat-owning company is defined in **section CD 22(2)** (Flat-owning companies) for the purposes of that section

foreign attributed income means a company's income for the income year that is—

- (a) attributed CFC income;
- (b) FIF income calculated under the accounting profits method or the branch equivalent method

foreign attributed loss offsets means all deductions or offsets a company is allowed in the income year that are—

- (a) attributed CFC losses;
- (b) FIF losses calculated under the accounting profits method or the branch equivalent method;
- (c) attributed CFC net losses;
- (d) FIF net losses calculated under the accounting profits method or the branch equivalent method

foreign company means a company that—

- (a) is not resident in New Zealand; or
- (b) is treated under a double tax agreement as not being resident in New Zealand

foreign company aggregates is defined in **section GC 9(7)** (Variations in control or income interests in foreign companies) for the purposes of that section

foreign country is defined in **section DB 36(5)** (Bribes paid to public officials) for the purposes of that section

foreign dividend has the same meaning as **foreign withholding payment dividend**

foreign entity—

- (a) means a foreign company; and
- (b) includes—
 - (i) a natural person not resident in New Zealand, if the natural person is the insurer under life insurance policies offered and entered into outside New Zealand (but only in the natural person's capacity as an insurer);
 - (ii) a foreign superannuation scheme;
 - (iii) an entity, or a member of a class of entities, specified in **schedule 4, part A** (Foreign investment funds)

foreign expenditure is defined in **section EG 1(11)** (Election to use balance date used in foreign country) for the purposes of that section

foreign investment fund has the meaning given to it by **section EX 29** (Foreign investment funds)

foreign non-dividend income means income that is—

- (a) not derived from New Zealand; and
- (b) not dividends

foreign public official is defined in **section DB 36(5)** (Bribes paid to public officials) for the purposes of that section

foreign source income is defined in **section EG 1(10)** (Election to use balance date used in foreign country) for the purposes of that section

foreign-sourced amount means an amount that is not treated as derived from New Zealand under **section OE 4** (Classes of income treated as having source in New Zealand)

foreign superannuation scheme means a superannuation scheme constituted outside New Zealand

foreign tax, in **subpart LC** (Foreign tax), means tax, other than New Zealand tax, that is the subject of a double tax agreement

foreign trust, in the trust rules, and in the definitions of **non-qualifying trust** and **taxable distribution**, means a trust to which both the following apply:

- (a) it is not a unit trust; and
- (b) on each date on which a distribution is made from it, no settler of it has been resident in New Zealand at any time since the later of—
 - (i) 17 December 1987; and
 - (ii) the date on which a settlement was first made under its terms

foreign withholding payment dividend means a dividend from which **section NH 1** (Liability to make deduction in respect of foreign withholding payment dividend) requires a dividend withholding payment deduction to be made

foreign withholding tax,—

- (a) except in the RWT rules, means a tax (other than a New Zealand tax) that—
 - (i) is imposed in relation to a foreign withholding payment dividend; and

- (ii) is of substantially the same nature as non-resident withholding tax:
- (b) in the RWT rules, means a tax (other than a New Zealand tax) that—
 - (i) is deducted from an amount of resident withholding income; and
 - (ii) is of substantially the same nature as non-resident withholding tax

forester has the meaning given to it by **section EH 3(1)(c)** (Persons to whom main income equalisation scheme applies)

forestry company means a company that is incorporated, under an agreement between the Crown, the Maori owners, and a holding company of the company, for the purposes of—

- (a) buying land partly from the Crown, partly from the Maori owners, and partly from a holding company of the company; and
- (b) carrying on a forestry business on the land

forward contract,—

- (a) in the financial arrangements rules, means—
 - (i) an agreement that is a conditional or an unconditional agreement to acquire or dispose of property, or obtain or supply services, if the agreement can be settled without the property being delivered or the services being performed; or
 - (ii) an agreement that is a conditional or an unconditional agreement to acquire or dispose of foreign exchange or a financial arrangement:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

friendly society means a society or credit union or association of credit unions registered or treated as registered under the Friendly Societies and Credit Unions Act 1982

fringe benefit has the meaning given to it by **section CX 2** (When **sections CX 2 to CX 33** apply)

fringe benefit tax means fringe benefit tax payable under **section ND 1** (Employer's liability for fringe benefit tax)

fringe benefit tax rules means—

- (a) the following provisions:
 - (i) **sections CX 2 to CX 33** (which relate to fringe benefits):

- (ii) **sections GC 15 to GC 17** (which relate to fringe benefit tax):
- (iii) **subpart ND** (Fringe benefit tax):
- (iv) **schedule 2** (Fringe benefit values); and
- (b) sections 93 and 139B and Part 7 of the Tax Administration Act 1994

full employment means—

- (a) employment under a contract of service or apprenticeship that requires a person to work, whether on time or piece rates, no less than an average of 30 hours each week; or
- (b) self-employment of a person in a business, manufacture, profession, trade, or undertaking carried on for pecuniary profit for not less than an average of 30 hours each week; or
- (c) employment for any number of hours that is regarded as full-time employment for the purpose of an agreement, award, or contract relating to the employment

full reinsurance has the meaning given to it by **section EY 11(2)** (Meaning of life reinsurance)

full-time earner—

- (a) means a person who, for any week,—
 - (i) is engaged in employment for not less than 20 hours in the week and does not have a spouse at any time in the week; or
 - (ii) is engaged in employment for not less than 30 hours in the week and has a spouse at any time in the week; or
 - (iii) is a spouse at any time in the week of another person who in the week is engaged in employment for not less than 30 hours; or
 - (iv) is engaged in employment in the week and is a spouse at any time in the week of another person who in the week is engaged in employment, if the total of the spouses' employment in the week is not less than 30 hours:
- (b) for the purposes of **paragraph (a)**, if a person performs employment in a pay period of longer than 1 week, the person is treated as performing the employment to a uniform daily extent throughout the period:

-
- (c) if a person described in **paragraph (a)** as being engaged in employment suffers an incapacity as described in **paragraph (d)**, which has the consequence described in **paragraph (e)**, **paragraph (f)** applies:
 - (d) for the purposes of **paragraph (c)**, the incapacity is an incapacity due to personal injury by accident within the meaning of section 2 of the Accident Compensation Act 1982 or section 3 of the Accident Rehabilitation and Compensation Insurance Act 1992 or section 29 of the Accident Insurance Act 1998 or section 26 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 for which 1 of the following has been, is being, or will be paid:
 - (i) earnings related compensation within the meaning of section 2 of the Accident Compensation Act 1982:
 - (ii) compensation for loss of earnings payable under any of sections 38, 39, and 43 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (iii) vocational rehabilitation allowance payable under section 25 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (iv) compensation for loss of potential earning capacity payable under section 45 or 46 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (v) weekly compensation payable under any of sections 58, 59, and 60 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (vi) continued compensation payable under section 138 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (vii) weekly compensation within the meaning of section 13 of the Accident Insurance Act 1998:
 - (viii) weekly compensation within the meaning of section 6 of the Injury Prevention, Rehabilitation, and Compensation Act 2001:
 - (e) for the purposes of **paragraph (c)**, the consequence is that the person is unable to be engaged in any week in the employment or employments in which, but for the incapacity, they would, the Commissioner is satisfied, have

been engaged in in the week for the number of hours specified in **paragraph (a)(i) or (ii) or (iii)** or to the extent of the engagement specified in **paragraph (a)(iv)**:

- (f) for the purposes of **paragraph (c)**, the person is treated as having been engaged in the week in the employment or employments for the number of hours specified in **paragraph (a)(i) or (ii) or (iii)** or to the extent of the engagement specified in **paragraph (a)(iv)**:
- (g) is defined in **section KC 3(3)** (Transitional tax allowance) for the purposes of that section

fully conduit tax relief credited means the part of a dividend calculated using the formula—

$$\frac{\text{CTRC} \times (1 - T)}{T}$$

where—

CTRC is the amount of conduit tax relief credit attached to the dividend

T is the rate of companies' tax, expressed as a percentage, stated in **schedule 1, part A, clause 5** (Basic rates of income tax and specified superannuation contribution withholding tax) that applies to the income year in which the dividend is paid

fully credited is defined in **section CD 33(24)** (Available subscribed capital amount) for the purposes of that section

fully employed person means a person to whom both the following apply:

- (a) the person—
 - (i) is a qualifying person, is engaged in employment for an average of not less than 30 hours a week, and has a spouse; or
 - (ii) is engaged in employment for an average of not less than 30 hours a week and has a spouse who is a qualifying person; or
 - (iii) is a qualifying person, is engaged in employment for an average of not less than 20 hours a week, and does not have a spouse; and
- (b) the person's employment is employment performed for the employer from whom the person derives primary employment earnings

further dividend withholding payment means an amount that a company may be liable to pay under **section MG 9** (Further dividend withholding payment payable by company)

further income tax means an amount of tax by way of further income tax that a company may be liable to pay under **section ME 9** (Further tax payable where end of year debit balance, or when company ceases to be imputation credit account company)

futures contract means a forward contract traded on a recognised futures exchange

general insurance means insurance that is not life insurance

general limitation means a rule described in any of **section DA 2(1) to (5)** (General limitations)

general permission has the meaning given to it by **section DA 1(1)** (General permission)

general power of appointment—

- (a) includes a power or authority that—
 - (i) is conferred by will or conferred by a settlement during life or created in any other manner; and
 - (ii) is exercisable orally or by instrument made during life or by will or by any other means; and
 - (iii) enables its holder, or would enable its holder if they were of full capacity, to obtain or appoint or dispose of any property, or to charge any sum or money on any property, as the holder thinks fit for their own benefit; and
- (b) does not include a power or authority—
 - (i) exercisable by a person in a fiduciary capacity under a disposition not made by them; or
 - (ii) exercisable as a mortgagee

generally accepted accounting practice has the meaning given to it by section 3 of the Financial Reporting Act 1993, as if that section applied for the purposes of this Act

gift is defined in **section KC 5(4)** (Rebate in respect of gifts of money) for the purposes of that section

goods, in **sections CX 1** (GST), **DB 2** (GST), and **EA 3** (Prepayments), and in the definition of **services**, has the meaning given to it by section 2 of the Goods and Services Tax Act 1985

government stock is defined in **section DZ 3(3)** (Film reimbursement scheme on or before 30 June 2001) for the purposes of that section

Government Superannuation Fund means the fund established under the Government Superannuation Fund Act 1956

grant-related suspensory loan means a loan—

- (a) that—
 - (i) is made by a public authority; and
 - (ii) is not a loan of the kind described in **section CF 2(1)** (Remission of specified suspensory loans); and
 - (iii) includes the term that the liability of the borrower may be wholly or partly remitted; or
- (b) that is made by the Rural Banking and Finance Corporation of New Zealand as an irrigation suspensory loan and designated as such; or
- (c) that is made by the Rural Banking and Finance Corporation of New Zealand as a West Coast drainage suspensory loan and designated as such

grey list means the list of countries in **schedule 3, part A** (International tax rules: grey list countries)

grey list company means a company that, under **section OE 2** (Determination of residence of company), is treated for the purposes of the international tax rules as being resident in a country or territory specified in **schedule 3, part A** (International tax rules: grey list countries)

gross, for an amount, means without any deduction from the amount

gross tax deductions means tax deductions payable by an employer under the PAYE rules in relation to source deduction payments

group investment fund means a group investment fund established under the—

- (a) Public Trust Act 2001; or
- (b) Trustee Companies Act 1967; or
- (c) Public Trust Office Act 1957

group of companies has the meaning given to it by **section IG 1(2)** (Companies included in group of companies)

group of persons includes 1 person

GST means goods and services tax under the Goods and Services Tax Act 1985

GST charged means GST charged under section 8(1) of the Goods and Services Tax Act 1985

GST payable—

- (a) in **sections CX 1** (GST) and **DB 2** (GST), has the meaning given to it by the definition of **tax payable** in section 2 of the Goods and Services Tax Act 1985 (but does not include interest payable under Part 7 of the Tax Administration Act 1994):
- (b) is defined in **section DB 3(3)** (Determining tax liabilities) for the purposes of that section

guaranteed residual value means an amount to which both the following apply:

- (a) it is equal to the value of a lease asset as agreed in the lease by the lessor and the lessee; and
- (b) its receipt by the lessor, on the expiry of the term of the lease, is assured or guaranteed by the lessee

guardian is defined in **section HH 3F** (Definitions of guardian, minor, and relative) for the purposes of **sections HH 3C** (Source of beneficiary income), **HH 3D** (Treatment of various settlements), and **HH 3F**

herd livestock means a type of listed livestock that a person—

- (a) chooses to value under the herd scheme; and
- (b) values for a tax year under **sections EC 6** (Value of livestock on death of person), **EC 11** (Valuation under herd scheme), and **EC 15** (Herd livestock disposed of before values set)

herd scheme—

- (a) means the livestock valuation method described in **sections EC 10 to EC 16** (which relate to the herd scheme); and
- (b) includes the livestock valuation method specified in—
 - (i) sections EL 5 and EL 6 of the Income Tax Act 1994; and
 - (ii) section 86A of the Income Tax Act 1976 as in force before its repeal by section 21 of the Income Tax Amendment Act (No 2) 1993; and
 - (iii) section 86D of the Income Tax Act 1976

herd value means, for an animal that is herd livestock and for a tax year, the national average market value of the livestock declared for the tax year

herd value factor means—

- (a) the factor calculated or recalculated under **section EC 12** (Herd value factor) or **EC 13** (Inaccurate herd value factor) for herd livestock other than livestock on the Chatham Islands;
- (b) the adjustment set by the Commissioner under **section EC 14** (Chatham Islands adjustment to herd value) for herd livestock on the Chatham Islands

high-priced livestock means an animal of a type set out in **schedule 8, column 1** (Types and classes of livestock) to which both the following apply:

- (a) a person buys it for a purchase price that is at least—
 - (i) \$500; and
 - (ii) 5 times the national average market value, in the income year of purchase or in the previous income year, whichever is greater, for the class in **schedule 8, column 2** (Types and classes of livestock) in which the livestock is able to be classified at the end of the income year of purchase; and
- (b) at the time the person buys it,—
 - (i) it is capable of being used for breeding; or
 - (ii) it is expected to be capable of being used for breeding when it reaches maturity

hire purchase agreement—

- (a) means an agreement that is a hire purchase agreement within the meaning of section 2 of the Hire Purchase Act 1971; and
- (b) does not include any such agreement to the extent to which the property the subject of the agreement is livestock or bloodstock

hire purchase asset means the personal property that is the subject of a hire purchase agreement

hire purchase payment means a payment made under a hire purchase agreement

hire purchase term means the period from the start of a hire purchase agreement to the expiry date of the agreement

holder is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

holding company,—

- (a) for a forestry company, means a company that has the forestry company under its control:
- (b) for a mining company, is defined in **section CU 28** (Other definitions)

home is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section

home ownership requirements means home ownership requirements as defined in the Home Ownership Savings Act 1974

home vendor mortgage is defined in **section KE 1(3)** (Rebate for interest on home vendor mortgages) for the purposes of that section

housekeeper is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section

identical goods is defined in **section ND 1M** (Meaning of identical goods) for the purposes of the fringe benefit tax rules

implementation date is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

improvement, for an item of depreciable property, has the meaning given to it by **section EE 57** (Other definitions)

improvements, in **sections CB 6** (Disposal: land acquired for business purposes) and **CB 9** (Disposal within 10 years of improvement: building business), means improvements to land that—

- (a) are not minor; and
- (b) are made—
 - (i) by a person erecting a building or otherwise; or
 - (ii) by an associated person erecting a building or otherwise

imputation credit means the amount attached to a dividend under **section ME 6** (Company may attach imputation credit to dividend)

imputation credit account means the account required to be maintained by a company under **section ME 1** (Companies required to maintain imputation credit account)

imputation credit account company means a company that is required by **section ME 1** (Companies required to maintain

imputation credit account) to maintain an imputation credit account

imputation penalty tax means tax payable under section 140B of the Tax Administration Act 1994

imputation ratio means an amount calculated using the formula—

$$\frac{a}{b}$$

where—

- a is the amount of the imputation credit attached to a dividend (the amount is zero if no such credit is attached)
- b is the amount of the dividend paid (exclusive of any imputation credit or dividend withholding payment credit)

imputation return is defined in **section NF 8(4)** (Resident withholding tax deductions from dividends deemed to be dividend withholding payment credits) for the purposes of that section

imputation rules means—

- (a) the following provisions:
 - (i) **section CD 9** (Tax credits linked to dividends):
 - (ii) **sections GC 21 to GC 23** (which relate to imputation):
 - (iii) **section LB 1** (Determination of amount of credit in certain cases):
 - (iv) **section LB 2** (Credit of tax for imputation credit):
 - (v) **section MD 2** (Limits on refunds of tax):
 - (vi) **section MD 4** (Application of income tax or dividend withholding payments not refunded):
 - (vii) **sections ME 1 to ME 9** (which relate to imputation credit accounts generally):
 - (viii) **sections ME 30 to ME 40** (which relate to specific kinds of imputation credit accounts):
 - (ix) **subpart MZ** (Terminating provisions):
 - (x) **section OB 6(1)(d)** (Meaning of income tax); and
- (b) sections 29, 64, 67, 69, 70, 97, 101, 139B, 140B, 140D(1) and (2), and 180 of the Tax Administration Act 1994

imputation year means the period of 12 months starting on 1 April in a year and ending with the following 31 March

income, for a person, means income of the person under **section BD 1(1)** (Income, exempt income, excluded income, and counted income)

income derived from New Zealand has the meaning given to it by **section OE 4** (Classes of income treated as having source in New Zealand)

income from employment—

- (a) means salary or wages or an extra pay:
- (b) in **sections DA 2** (General limitations) and **DE 1** (What this subpart does), means salary or wages or an extra pay, except for payments referred to in the definition of **salary or wages** in any of **paragraph (b)(ix) to (xiii)** to the extent to which those payments are made to 1 of the following:
 - (i) under the Accident Compensation Act 1982, a self-employed person, as defined in section 2 of the Act; or
 - (ii) under the Accident Rehabilitation and Compensation Insurance Act 1992, an earner in relation to compensation for loss of earnings other than as an employee, as defined under regulations made under section 167 of the Act; or
 - (iii) under the Accident Insurance Act 1998, a self-employed person, as defined in section 13 of the Act, for compensation paid under schedule 1, clause 7 of the Act; or
 - (iv) under the Injury Prevention, Rehabilitation, and Compensation Act 2001, a self-employed person, as defined in section 6 of the Act, for compensation paid under schedule 1, clause 32 of the Act:
- (c) in **sections DA 2** (General limitations) and **DE 1** (What this subpart does), also means salary, wages, or other income to which **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies) applies

income from forestry has the meaning given to it by **section EH 34** (Some definitions used in main income equalisation scheme)

income from mining has the meaning given to it by **section CU 21** (Income from mining)

income from personal exertion is defined in **section IE 2(8)** (Specified activity net losses) for the purposes of that section

income interest,—

- (a) for a foreign company, has the meaning given to it by **sections EX 8 to EX 13** (which relate to the calculation of a person's income interest):
- (b) in **subpart MF** (Branch equivalent tax accounts), and in the dividend withholding payment rules and the imputation rules, means an income interest of 10% or greater under the rules in **sections EX 14 to EX 17** (which relate to the 10% threshold and variations in the income interest level)

income statement means a statement issued by the Commissioner to a natural person that contains the information required by section 80E of the Tax Administration Act 1994

income tax has the various meanings given to it by **section OB 6** (Meaning of income tax)

income tax liability—

- (a) means an income tax liability for a tax year calculated under **subpart BC** (Calculating and satisfying income tax liabilities); and
- (b) in **sections CC 9** (Use of money interest payable by Commissioner) and **EF 4 to EF 6** (which relate to use of money interest), includes circumstances in which a person has no tax to pay or is entitled to a refund of tax

income year means,—

- (a) for a person who has elected, under section 38 of the Tax Administration Act 1994 and with the Commissioner's consent, to have a period not ending on 31 March, the elected period (which may be less than a year in some cases):
- (b) for any other person, the tax year

income year of transfer, for a matrimonial agreement, means the income year in which the date of transfer falls

income-tested benefit—

- (a) means any of the following benefits paid or payable under the Social Security Act 1964:
 - (i) domestic purposes benefit:
 - (ii) emergency benefit:
 - (iii) independent youth benefit:

- (iv) invalids' benefit;
- (v) sickness benefit;
- (vi) unemployment benefit;
- (vii) widows' benefit; and
- (b) includes a transitional retirement benefit payable under Part 1 of the Social Welfare (Transitional Provisions) Act 1990; and
- (c) does not include a supplement or benefit paid or payable under any of sections 61DB, 61DC, 61DD, 61DE, 61EA, 61G, and 69C of the Social Security Act 1964

increase in savings is defined in **section KG 1(3)** (Rebate for savings in special farm, fishing vessel, and home ownership accounts) for the purposes of that section

indirect income interest has the meaning given to it by **section EX 10** (Indirect income interests)

initial period means the period—

- (a) starting on the date of the start of a lease; and
- (b) ending immediately before the start of the instalment period first following the start of the lease

initial treatment has the meaning given to it by **section CU 28** (Other definitions)

Inland Revenue Acts means the Acts specified in the schedule of the Tax Administration Act 1994

input tax—

- (a) has the meaning given to it by section 3A of the Goods and Services Tax Act 1985; and
- (b) includes, for a supply, GST levied on goods entered for home consumption under the Customs and Excise Act 1996

instalment, in **sections FC 6 to FC 8** (which relate to leases), and in the definitions of **instalment period** and **outstanding balance**, means an amount payable by a lessee, under a lease, by way of—

- (a) repayment of some or all of a loan that a lessor is treated as having advanced under **section FC 6(3)** (Effect of specified lease on lessor and lessee); or
- (b) payment of interest; or
- (c) both

instalment date means—

- (a) the 7th day of the month specified in **schedule 13, part A** (Months for payment of provisional tax and terminal tax) for payment of an instalment of provisional tax for a tax year, unless January is specified; and
- (b) 15 January, if January is specified

instalment period, means the period—

- (a) starting on the day on which an instalment is payable; and
- (b) ending with the day immediately before the day on which the next instalment is payable

institution is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section

insurance contract includes a cover note and a renewal of an insurance contract

insurance premium is defined in **section GD 13(13)** (Cross-border arrangements between associated persons) for the purposes of that section

insured person is defined in **section FC 13(9)** (Premiums derived by non-resident general insurers treated as being derived from New Zealand) for the purposes of **sections FC 13 to FC 17** (which relate to non-resident general insurers)

insurer is defined in **section FC 13(9)** (Premiums derived by non-resident general insurers treated as being derived from New Zealand) for the purposes of **sections FC 13 to FC 17** (which relate to non-resident general insurers)

interest,—

- (a) for a person's income,—
 - (i) means a payment made to the person by another person for money lent to any person, whether or not the payment is periodical and however it is described or computed; and
 - (ii) does not include a redemption payment; and
 - (iii) does not include a repayment of money lent:
- (b) for a person's resident withholding income,—
 - (i) means a payment made to the person by another person for money lent to any person, whether or not the payment is periodical and however it is described or computed; and
 - (ii) includes a redemption payment; and

- (iii) does not include a repayment of money lent:
- (c) for a person's non-resident withholding income,—
 - (i) means a payment made to the person by another person for money lent to any person, whether or not the payment is periodical and however it is described or computed; and
 - (ii) includes a redemption payment; and
 - (iii) does not include a repayment of money lent:
- (d) in **sections DB 6** (Interest: not capital expenditure), **DB 7** (Interest: most companies need no nexus with income), **and DB 8** (Interest: money borrowed to acquire shares in group companies),—
 - (i) includes expenditure incurred under the financial arrangements rules or the old financial arrangements rules; and
 - (ii) does not include interest to which **section DB 1(1)(c)** (Taxes and penalties (other than GST)) applies:
- (e) in the definition of **exempt interest**, includes a redemption payment:
- (f) for land, has the same meaning as **estate**

international aircraft has the meaning given to it by **section EE 57** (Other definitions)

international organisation is defined in **section CW 17(3)** (Amounts derived by overseas experts and trainees in New Zealand by government arrangement) for the purposes of that section

international tax rules means—

- (a) the following provisions:
 - (i) **section CD 13** (Attributed repatriations from controlled foreign companies):
 - (ii) **sections CD 35 to CD 42** (which relate to CFC attributed repatriation calculation rules):
 - (iii) **section CQ 2** (When attributed CFC income arises):
 - (iv) **section CQ 5** (When FIF income arises):
 - (v) **section CZ 11** (Transitional relief for calculation of attributed repatriation dividends: 2 July 1992):
 - (vi) **section DN 2** (When attributed CFC loss arises):
 - (vii) **section DN 6** (When FIF loss arises):
 - (viii) **subpart EX** (Controlled foreign company and foreign investment fund rules):

- (ix) **section EZ 1** (FIF interests held on 1 April 1993):
 - (x) **section FD 11** (Application of international tax rules):
 - (xi) **sections GC 7 to GC 10** (which relate to avoidance):
 - (xii) **section GD 14** (Attributing interests in FIFs):
 - (xiii) **section IE 3** (Attributed CFC net losses):
 - (xiv) **section IE 4** (FIF net losses):
 - (xv) **section IF 3** (Attributed CFC net losses):
 - (xvi) **section IG 4** (Group of companies attributed CFC net losses):
 - (xvii) **section IG 5** (Group of companies FIF net losses):
 - (xviii) **section LC 4** (Foreign tax credits: CFCs):
 - (xix) **section LC 5** (Group of companies CFC tax credits):
 - (xx) **section MF 15** (Extension of branch equivalent tax account provisions to certain FIF income):
 - (xxi) **section OB 6(1)(c)** (Meaning of income tax):
 - (xxii) **section OD 8(3)** (Further definitions of associated persons):
 - (xxiii) **section OD 9** (Nominees are transparent):
 - (xxiv) **section OE 2(2) to (6)** (Determination of residence of company); and
- (b) sections 61 and 183 of the Tax Administration Act 1994
- investment society dividend** means—
- (a) a dividend declared by a friendly society; or
 - (b) a dividend declared by a registered society as defined in section 2 of the Industrial and Provident Societies Act 1908; or
 - (c) for a building society,—
 - (i) a dividend declared by the society; or
 - (ii) some tangible or intangible benefit that a member or a shareholder receives for disposing to the society of a share in the society; the benefit may or may not be relief from an obligation and may or may not be convertible into money

investor, for a group investment fund, means a person who is entitled, by reason of the terms of the trust under which the group investment fund is established, to the income from the investments and funds of the group investment fund

issue, for a financial arrangement, means the act of creating the financial arrangement

issuer is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

joint venture agreement, for an airport operator,—

- (a) means an agreement made between an airport authority and the Crown acting by and through the Minister of Transport under section 94 of the Civil Aviation Act 1990; and
- (b) includes any other agreement of a similar nature made between the Crown and an airport authority, whether or not the airport authority was, at the time the agreement was made, an airport authority, and whether or not the agreement was made before the commencement of the Civil Aviation Act 1990

land—

- (a) is defined in **section CB 17(3)** (Business exclusion from **sections CB 5 to CB 9**) for the purposes of that section:
- (b) is defined in **section CB 22** (Some definitions) for the purposes of **sections CB 5 to CB 22** (which relate to land):
- (c) is defined in **section DC 4(5)** (Payments to working partners) for the purposes of that section:
- (d) in **sections EB 2(3)(a)** (Meaning of trading stock), **FE 6(3A) and (3B)** (Acquisition of property by amalgamated company on qualifying amalgamation), **FF 6** (Land), **GD 2** (Distribution of trading stock to shareholders of company), and **GD 9** (Land transferred between associated persons),—
 - (i) includes an estate or interest in land, whether legal or equitable, corporeal or incorporeal, freehold or chattel; and
 - (ii) includes an option to acquire any such estate or interest in land; and
 - (iii) includes an option to acquire land; and
 - (iv) does not include a mortgage:
- (e) in **sections FF 18** (Land used in specified activity) and **IE 2** (Specified activity net losses), and in the definition of **specified activity**,—
 - (i) includes an estate or interest in land, whether legal or equitable, corporeal or incorporeal, freehold or chattel; and
 - (ii) includes an option to acquire any such estate or interest in land; and

- (iii) includes an option to acquire land; and
 - (iv) includes a lease, or an interest under a lease, of a leased area within the meaning of the Marine Farming Act 1971; and
 - (v) includes a licence, or an interest under a licence, relating to a licensed area within the meaning of the Marine Farming Act 1971; and
 - (vi) includes a lease improvement; and
 - (vii) does not include a mortgage:
- (f) in the definitions of **permit area**, **petroleum mining asset**, **prospecting expenditure**, and **residual expenditure**,—
- (i) means all land within the territorial limits of New Zealand; and
 - (ii) includes land below the territorial sea of New Zealand or any other waters within the territorial limits of New Zealand; and
 - (iii) includes the continental shelf; and
 - (iv) includes the seabed and subsoil below any sea that is beyond the territorial sea of New Zealand but that, by New Zealand legislation and under international law, has been or may be designated as an area in which the rights of New Zealand relating to natural resources may be exercised

land owned—

- (a) means an estate or interest owned in land; and
- (b) includes land treated by this Act as being so owned

larger area of land is defined in **section CB 15(3)** (Residential exclusion from **sections CB 10 and CB 11**) for the purposes of that section

late balance date has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

lease—

- (a) means a disposition that creates a leasehold estate:
- (b) for the purposes of **subpart EE** (Depreciation), includes a licence to occupy:
- (c) in **sections EJ 19** (Payment by lessee under personal property and operating leases), **EX 21(30) and (31)** (Branch equivalent income or loss: calculation rules), **FC 6 to FC 8** (which relate to leases), **and FC 8A to FC 8G** (which relate to finance leases), and in the definitions of **cost price**

(**paragraphs (b) to (e)**), **finance lease**, **guaranteed residual value**, **initial period**, **instalment**, **lease asset**, **lease payment**, **outstanding balance**, **lessee** (**paragraph (a)**), **lessor** (**paragraph (a)**), **specified lease**, and **term of the lease**,—

- (i) means an agreement under which a lessor transfers to a lessee for the term of the lease a lease asset or the right to possess a lease asset in consideration for a lease payment; and
 - (ii) includes a sublease; and
 - (iii) includes a hire or bailment; and
 - (iv) includes a lease that is 2 or more consecutive or successive leases treated as 1 lease because the same lease asset had been leased to the same lessee or an associated person of the lessee under the consecutive or successive leases and the Commissioner, having regard to the tenor of this paragraph, regards the consecutive or successive leases as 1 lease; and
 - (v) does not include a hire purchase agreement as defined in section 2 of the Hire Purchase Act 1971; and
 - (vi) does not include an assignment of a hire purchase agreement:
- (d) is defined in **section EZ 29(5)** (Premium paid on land leased before 1 April 1993) for the purposes of that section:
- (e) is defined in **section GD 10(4)** (Leases for inadequate rent) for the purposes of that section:
- (f) in the financial arrangements rules, means—
- (i) a lease within the meaning of **paragraph (f)**:
 - (ii) an arrangement that would be a lease within the meaning of **paragraph (f)** if the arrangement did not relate to real property, livestock, or bloodstock

lease asset—

- (a) means any personal property subject to a lease; and
- (b) does not include any bloodstock or livestock

lease improvement means an improvement on or in relation to the leased area or the licensed area to which a lease or licence under the Marine Farming Act 1971 relates

lease payment means a payment made by a lessee to a lessor, in money or money's worth, in relation to, or in consideration for, a lease asset

leasehold estate includes any estate, however created, other than a freehold estate

legal defeasance means a defeasance in which the release of a party to a financial arrangement or an excepted financial arrangement from the primary obligation of the financial arrangement or the excepted financial arrangement is—

- (a) acknowledged formally by the creditor; or
- (b) acknowledged formally by a duly appointed trustee or agent of the creditor; or
- (c) established by legal judgment

legal life has the meaning given to it by **section EE 57** (Other definitions)

lessee—

- (a) for a lease,—
 - (i) means a person who leases, hires, or bails a lease asset from a lessor; and
 - (ii) includes a trustee or assignee of the person; and
 - (iii) for the purposes of **subpart EE** (Depreciation), includes the holder of a licence to occupy:
- (b) for a hire purchase agreement, means the person who obtains the use of, or the right to use, the hire purchase asset under the agreement:
- (c) is defined in **section GD 10(4)** (Leases for inadequate rent) for the purposes of that section

lessee's acquisition cost—

- (a) means the consideration provided to the lessee for a finance lease asset (as determined under the definition of **consideration**) plus any expenditure or loss incurred by the lessee in preparing and installing the finance lease asset for use, unless the lessee is allowed a deduction for the expenditure or loss, other than a deduction for an amount of depreciation loss:
- (b) is defined in **section FC 10(8)** (Taxation of hire purchase agreements) for the purposes of that section

lessee's outstanding balance, for a hire purchase agreement, means the amount calculated using the formula—

$$a + b + c$$

where—

- a is the amount that, on the termination or expiry of the hire purchase agreement, is the net balance due on the agreement (“net balance due” has the meaning given to it by section 22(3) of the Hire Purchase Act 1971), but the costs and expenses referred to in section 31(2)(c) and (d) of the Credit (Repossession) Act 1997 are excluded
- b is an amount that is—
 - (i) paid by the lessee (or a person associated with the lessee) to the lessor (or a person associated with the lessor) under the hire purchase agreement; and
 - (ii) paid consequentially on the termination or expiry of the hire purchase agreement; and
 - (iii) required to be taken into account by the lessee either under the base price adjustment in **section EW 37** (Base price adjustment formula) or in item “a” of the formula in **section EZ 35(1)** (Income and expenditure where financial arrangement redeemed or disposed of)
- c is an amount that is—
 - (i) paid by the lessor (or a person associated with the lessor) to the lessee (or a person associated with the lessee) under the hire purchase agreement; and
 - (ii) paid consequentially on the termination or expiry of the hire purchase agreement; and
 - (iii) required to be taken into account by the lessee either under the base price adjustment in **section EW 37** (Base price adjustment formula) or in item “b” or “c” of the formula in **section EZ 35(1)** (Income and expenditure where financial arrangement redeemed or disposed of)

lessor—

- (a) for a lease,—
 - (i) means a person who assembles, manufactures, purchases, or otherwise acquires a lease asset and leases it to a lessee; and
 - (ii) includes a trustee or assignee of the person; and
 - (iii) includes, for the purposes of **subpart EE** (Depreciation), the grantor of a licence to occupy:
- (b) for a hire purchase agreement,—

- (i) means the person who grants to the lessee the use of, or the right to use, a hire purchase asset under the agreement; and
- (ii) includes an assignee of the person in relation to the hire purchase agreement:
- (c) is defined in **section GD 10(4)** (Leases for inadequate rent) for the purposes of that section

lessor's disposition value means,—

- (a) for a hire purchase asset, the consideration provided by the lessor under the hire purchase agreement, as determined under the definition of **consideration**; or
- (b) for a finance lease asset, the consideration provided by the lessor under the finance lease, as determined under the definition of **consideration**

lessor's outstanding balance, for a hire purchase agreement, means the amount calculated using the formula—

$$a + b + c$$

where—

- a is the amount that, on the termination or expiry of the hire purchase agreement, is the net balance due on the agreement (“net balance due” has the meaning given to it by section 22(3) of the Hire Purchase Act 1971), but the costs and expenses referred to in section 31(2)(c) and (d) of the Credit (Repossession) Act 1997 are excluded
- b is an amount that is—
 - (i) paid by the lessee (or a person associated with the lessee) to the lessor (or a person associated with the lessor) under the hire purchase agreement; and
 - (ii) paid consequentially on the termination or expiry of the hire purchase agreement; and
 - (iii) required to be taken into account by the lessee under the base price adjustment in **section EW 37** (Base price adjustment formula) or by the lessor in item “a” of the formula in **section EZ 35(1)** (Income and expenditure where financial arrangement redeemed or disposed of)
- c is an amount that is—
 - (i) paid by the lessor (or a person associated with the lessor) to the lessee (or a person associated with

the lessee) under the hire purchase agreement;
and

- (ii) paid consequentially on the termination or expiry of the hire purchase agreement; and
- (iii) required to be taken into account by the lessee under the base price adjustment in **section EW 37** (Base price adjustment formula) or by the lessor in item “b” or “c” of the formula in **section EZ 35(1) or (2)** (Income and expenditure where financial arrangement redeemed or disposed of)

levy, for a statutory producer board, means a sum payable by a member of the board under a power of the board to require or request a member of the board to pay a sum by way of levy

liability, in the definition of **tax avoidance**, includes a potential or prospective liability to future income tax

licence-specific assets is defined in **section DZ 7(6)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

life insurance has the meaning given to it by **sections EY 8** (Meaning of life insurance) **and EY 13** (Life insurance and life reinsurance: how sections relate)

Life Insurance Fund means a Life Insurance Fund within the meaning of section 15 of the Life Insurance Act 1908 and, for a life insurer, means the life insurer’s Life Insurance Fund

life insurance policy—

- (a) has the meaning given to it by **sections EY 9** (Meaning of life insurance policy) **and EY 13** (Life insurance and life reinsurance: how sections relate); and
- (b) when referred to in relation to a life insurer, means a life insurance policy under which the life insurer is the insurer

life insurance rules has the meaning given to it by **section EY 1(2)** (What this subpart applies to)

life insured means—

- (a) a human being on whose death or survival the payment of a benefit under a life insurance policy is contingent, including the payment of an annuity whose term is contingent on human life; and

- (b) a human being to whom an annuity whose term is not contingent on human life is payable under a life insurance policy

life insurer,—

- (a) in the life insurance rules, has the meaning given to it by **sections EY 10** (Meaning of life insurer) **and EY 13** (Life insurance and life reinsurance: how sections relate):
- (b) in **section OD 5A** (Modifications to measurement of voting and market value interests in cases of continuity provisions and demutualisation of insurers), and in the fringe benefit tax rules, means a person carrying on a business of providing life insurance:
- (c) is defined in **section CX 13(4)** (Employment-related loans: loans by life insurers) for the purposes of that section

life reinsurance has the meaning given to it by **sections EY 11** (Meaning of life reinsurance) **and EY 13** (Life insurance and life reinsurance: how sections relate)

life reinsurance policy—

- (a) has the meaning given to it by **sections EY 12** (Meaning of life reinsurance policy) **and EY 13** (Life insurance and life reinsurance: how sections relate); and
- (b) when referred to in relation to a life reinsurer, means a life reinsurance policy under which the life reinsurer is the reinsurer

life reinsurer has the meaning given to it by **sections EY 11(4)** (Meaning of life reinsurance) **and EY 13** (Life insurance and life reinsurance: how sections relate)

limitation rule has the meaning given to it by **section DD 1(3)** (Entertainment expenditure generally)

limited attribution company is defined in **section OD 5(10)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of that section

limited attribution foreign company is defined in **section OD 5(10)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of that section

limited recourse loan is defined in **section DS 7** (Some definitions) for the purposes of **subpart DS** (Film industry expenditure)

linked to a tax agent, for a return of income, means linked in that the Commissioner has been given notice that the return is to be filed by a tax agent to whom an extension of time has been granted under section 37(4), and not been cancelled under section 37(4A), of the Tax Administration Act 1994

liquidation, for a company,—

- (a) includes—
 - (i) removal of the company from the register of companies under the Companies Act 1993; and
 - (ii) dissolution of the company under the Companies Act 1955; and
 - (iii) termination of the company's existence under any other procedure of New Zealand or foreign law; and
- (b) includes, in references in this Act to anything occurring on liquidation, anything occurring—
 - (i) during the period that starts with a step that is legally necessary to achieve liquidation, including the appointment of a liquidator or a request of the type referred to in section 318(1)(d) of the Companies Act 1993; and
 - (ii) for the purpose of enabling liquidation

listed company is defined in **section OD 5(10)** (Modifications to measurement of voting and market value interests in case of continuity provisions) for the purposes of that section and **sections KH 2** (Calculation of percentage of shareholders not resident) and **NH 7** (Reduction in liability under conduit tax relief)

listed livestock—

- (a) means an animal that is, for any of the types of livestock set out in **schedule 8, column 1** (Types and classes of livestock), an animal of that type; and
- (b) does not include an animal that is high-priced livestock

livestock on the Chatham Islands means livestock that are on hand on the Chatham Islands at the end of an income year

living alone payment means a living alone payment under section 18A of the Social Welfare (Transitional Provisions) Act 1990 or section 13 of the New Zealand Superannuation Act 2001

loan—

- (a) in **sections CD 19** (Property made available intra-group) **and CD 29** (Calculation of amount of dividend when property made available) **and subpart LF** (Underlying foreign tax credits), and in the fringe benefit tax rules, includes—
 - (i) an amount of money that a person provides in some way, such as by depositing it in an account:
 - (ii) an amount of credit that a person gives, including by not enforcing a debt:
 - (iii) an amount of money that a person provides, or credit that a person gives, under an obligation or arrangement:
 - (iv) an amount of money that a person gives in return for a promissory note:
 - (v) any other amount that a person advances or gives as principal under a financial arrangement, but not an excepted financial arrangement:
- (b) for a holding company and a mining company, has the meaning given to it by **section CU 28** (Other definitions):
- (c) is defined in **section CZ 10(5)** (Exchange variations on 8 August 1975) for the purposes of that section

local authority—

- (a) means—
 - (i) a local authority named in schedule 1 of the Local Government Act 1974; or
 - (ii) a local authority of any of the classes specified in the schedule; and
- (b) includes Infrastructure Auckland as defined in section 707ZZI of the Act

local authority trading enterprise means—

- (a) a local authority trading enterprise (as defined in section 594B of the Local Government Act 1974):
- (b) an organisation (as defined in section 594B(2) of the Local Government Act 1974) that—
 - (i) is subject to significant control (as defined in section 594B(2) of the Act), directly or indirectly, by 1 or more local authorities; and
 - (ii) has significant control (as so defined), directly or indirectly, of a local authority trading enterprise within the meaning of **paragraph (a)**:

- (c) the New Zealand Local Government Association Incorporated:
- (d) a company or organisation (as defined in section 594B(2) of the Local Government Act 1974) that is subject to the control, directly or indirectly, of the New Zealand Local Government Association Incorporated

long-term bailment is defined in **section EC 24** (Some definitions) for the purposes of **subpart EC** (Valuation of livestock)

loss—

- (a) includes an amount of depreciation loss, except when any of **paragraphs (b) to (d)** applies:
- (b) means an attributed CFC loss when used in the expression “attributed CFC income or loss”:
- (c) means a branch equivalent loss when used in the expression “branch equivalent income or loss”:
- (d) means a FIF loss when used in the expression “FIF income or loss”

loss attributing qualifying company means a company to which **section HG 14** (Loss attributing qualifying companies) applies

low tax jurisdiction company means a company that is treated under **section OE 2** (Determination of residence of company), for the purposes of the international tax rules, as being resident in a country or territory specified in **schedule 5, part A** (Low tax jurisdictions or territories)

low-turnover trader is defined in **section EB 12(3)** (Low-turnover valuation) for the purposes of **subpart EB** (Valuation of trading stock (including dealer’s livestock))

lump sum payment is defined in **section EI 6(6)** (Assigning or granting copyright) for the purposes of that section

main deposit has the meaning given to it by **section EH 34** (Some definitions used in main income equalisation scheme)

main income equalisation account has the meaning given to it by **section EH 34** (Some definitions used in main income equalisation scheme)

main income equalisation scheme means the scheme referred to in **section EH 1(2)(a)** (Income equalisation schemes)

main maximum deposit has the meaning given to it by **section EH 34** (Some definitions used in main income equalisation scheme)

major shareholder, for a close company, means any person who—

- (a) owns or has in any way the power to control, whether directly or indirectly, or has the right to acquire, 10% or more of the ordinary shares of the company;
- (b) owns, or has in any way the power to control, whether directly or indirectly, or has the right to acquire, 10% or more of the voting rights of the company;
- (c) has, by any other means whatever, 10% or more of the control of the company

management fees means fees charged for the management of a fund, or any commission, other recompense, or remuneration paid out of a fund for management or agency services

Maori—

- (a) means a person who is a Maori within the meaning of the Maori Land Act 1993;
- (b) in **sections HH 1 to HH 5** (which relate to trusts),—
 - (i) means a person belonging to the aboriginal race of New Zealand; and
 - (ii) includes a person descended from a Maori; and
 - (iii) includes a person legally or beneficially entitled to any income of a Maori authority, except for the purposes of the definition of **Maori authority**

Maori authority—

- (a) means the Maori Land Board, the Maori Trustee (except in the capacity as collecting and distributing agent for rent, royalties, or interest), the East Coast Commissioner, or a Maori incorporation; and
- (b) includes any other person or body of persons administering or having control of Maori land or reserves or any other property or income in trust for or on behalf of or for the benefit of Maori, otherwise than as—
 - (i) the executor, administrator, or trustee of the estate of a deceased Maori; or
 - (ii) a trustee under a deed or other document executed by a Maori and creating a trust of any property or income

Maori incorporation has the meaning given to it by section 4 of the Maori Land Act 1993

Maori investment company means a company that is incorporated for the purpose of acquiring shares or debentures

issued by a forestry company for unpaid purchase money for Maori land bought by the forestry company from the Maori owners

Maori land means Maori freehold land within the meaning and for the purposes of the Maori Land Act 1993

Maori owners—

- (a) means the persons who have a beneficial interest in Maori land bought by a forestry company; and
- (b) includes every trustee for a Maori owner, the Maori Trustee, and every Maori incorporation that has a beneficial interest in the land

market value—

- (a) in **subpart EB** (Valuation of trading stock (including dealer's livestock)), does not include any GST that would be charged on the disposal by a person of their trading stock if the disposal would be a taxable supply by the person:
- (b) is defined in **section EX 58** (Market value of life policy and superannuation entitlements) for certain purposes of **sections EX 29 to EX 60** (which relate to the FIF rules):
- (c) is defined in **section ND 1J(3)** (Goods: value of benefit) for the purposes of that section:
- (d) is defined in **section ND 1L(2)** (When value of fringe benefit cannot be ascertained) for the purposes of that section:
- (e) in **sections OD 4, OD 5, and OD 6** (which relate to the measurement of control and ownership interests), and in the definitions of **excluded option, fixed rate share, market value circumstance, and market value interest**, means, for a share or option quoted on the official list of a recognised exchange, at any time, an amount equal to the middle market quotation at the time for a share or option having the same terms as the share or option to be valued, unless the quotation is not a fair reflection of the market value at the time of the share or option to be valued, having regard at the time to the matters referred to in **paragraph (e)** of the definition of **recognised exchange**:
- (f) in **sections OD 4, OD 5, and OD 6** (which relate to the measurement of control and ownership interests), and in the

definitions of **excluded option**, **fixed rate share**, **market value circumstance**, and **market value interest**, means, for a share or option to which **paragraph (e)** does not apply, at any time, the amount that a willing purchaser would pay to acquire the share or option in an arm's length acquisition at the time and that is determined using a method that—

- (i) conforms with commercially acceptable practice; and
- (ii) may, in appropriate cases, have regard to the present value at the time of the company's anticipated income or cash flows and the realisable value at the time of the company's assets; and
- (iii) results in a valuation that is fair and reasonable having regard to the tenor of **sections FF 1** (Shares or options), **GC 3** (Effect on continuity provisions of change in beneficiaries of trust), and **OD 3 to OD 6** (which relate to the measurement of control and ownership interests)

market value circumstance, for a company at any time,—

- (a) means an occasion or situation in which, at the time, the company has on issue a debenture—
 - (i) that is not an excluded security or pre-1991 budget security; and
 - (ii) to which **section FC 1** (Floating rate of interest on debentures) or **FC 2** (Interest on debentures issued in substitution for shares) applies:
- (b) also means an occasion or situation in which, at the time,—
 - (i) the company has on issue a share that is not an excluded security or a pre-1991 budget security; and
 - (ii) the payment of a dividend is guaranteed or secured to the holder by some person other than the company; and
 - (iii) the directors of the company know or could reasonably be expected to know at the time that the payment of a dividend is so guaranteed or secured:
- (c) also means an occasion or situation in which, at the time, an option exists that—
 - (i) is not an excluded option; and

- (ii) is to acquire a share in the company; and
 - (iii) is granted by the company or a person other than the company:
- (d) also means an occasion or situation in which, at the time, an option exists that—
 - (i) is not an excluded option; and
 - (ii) is to require a person to acquire a share in the company:
- (e) also means an occasion or situation in which, at the time, an arrangement or a series of related or connected arrangements exists that—
 - (i) relates to shares or options over shares in the company issued by the company or any other person; and
 - (ii) has a purpose or effect of defeating the intent and application of any provision of this Act whose application is dependent upon the measurement of voting and market value interests:
- (f) does not exist under any of **paragraphs (a) to (e)** if, at the time, no share in the company has a value higher than zero (except for an excluded security or a pre-1991 budget security) and no option over a share in the company has a value higher than zero (except for an excluded option):
- (g) also means an occasion or situation in which, at the time,—
 - (i) under any of **paragraphs (a) to (e)**, a direct market value circumstance exists for another company (**shareholder company**); and
 - (ii) the shareholder company is associated with the company; and
 - (iii) under **section OD 4(3)(d)** (Market value interests), any fraction of any market value interest held (or treated under **section OD 4(3)(d)** as held) by the shareholder company in the company is treated as held by any other person

market value interest—

- (a) except in **section OD 5(6E)** (Modifications to measurement of voting and market value interests in case of continuity provisions), means, for a person and a company and a time, the percentage market value interest that the person is treated as holding in the company at the time

under **sections OD 2 to OD 6** (which relate to the measurement of control and ownership interests):

- (b) is further defined in **section HG 2** (Determination of effective interest in company) for the purposes of **subpart HG** (Qualifying companies) and the definition of **effective interest**:
- (c) in **section OD 5(6E)** (Modifications to measurement of voting and market value interests in case of continuity provisions), means, for a person and a company and a time, the percentage market value interest that the person is treated as holding in the company under **section OD 4** (Market value interests), as modified by **section OD 5(6F)**

master fund means—

- (a) a group investment fund that derives category A income; or
- (b) a qualifying unit trust

matrimonial agreement, for any 2 persons, means—

- (a) an agreement made on or after 28 July 1983 by those persons under Part 6 of the Property (Relationships) Act 1976:
- (b) an order of the court made on or after 28 July 1983 in relation to those persons under section 25 of the Property (Relationships) Act 1976

maturity means,—

- (a) in the financial arrangements rules,—
 - (i) for an agreement for the sale and purchase of property or services or an option, the date on which the agreement or option ends:
 - (ii) for any other financial arrangement, the date on which the last payment contingent on the arrangement is made:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

maximum pooling value has the meaning given to it by **section EE 55** (Maximum pooling value)

member—

- (a) in **sections CD 24(1)** (Payments corresponding to notional distributions of producer boards and co-operative companies) and **ME 30 to ME 34** (which relate to imputation credit accounts of statutory producer boards), and in the

definitions of **levy** and **produce transactions**, for a statutory producer board and for a year of determination, means a person who—

- (i) is resident in New Zealand; and
 - (ii) carries on in the year a farming or agricultural or other business in relation to which the board has special statutory functions; and
 - (iii) is liable to pay a levy to the board for the year or enters into produce transactions with the board during the year:
- (b) in **subpart CS** (Superannuation funds), and in the definition of **withdrawal**, has the meaning given to it by the Superannuation Schemes Act 1989:
 - (c) is defined in **section HF 1(9)** (Profits of mutual associations in respect of transactions with members) for the purposes of that section:
 - (d) is defined in **section LC 1(6)** (Credits in respect of tax paid in country or territory outside New Zealand) for the purposes of that section:
 - (e) is defined in **section NF 10(6)** (Unincorporated bodies) for the purposes of that section

member's contribution—

- (a) means a member's contribution to a superannuation fund; and
- (b) includes any return on the contribution

mineral has the meaning given to it by **section CU 28** (Other definitions)

minibus means a motor vehicle, designed wholly or mainly for the carriage of persons, the interior of which contains either—

- (a) 3 seats, each of which—
 - (i) is designed for the seating of 2 or more adult persons; and
 - (ii) is permanently fixed to the motor vehicle; and
 - (iii) is neither collapsible nor capable of being folded down; or
- (b) more than 3 seats, of which not less than 3 are each—
 - (i) designed for the seating of 2 or more adult persons; and
 - (ii) permanently affixed to the motor vehicle; and

- (iii) neither collapsible nor capable of being folded down

mining company has the meaning given to it by **section CU 22** (Mining company)

mining development expenditure has the meaning given to it by **section CU 23** (Mining development expenditure)

mining exploration expenditure has the meaning given to it by **section CU 24** (Mining exploration expenditure)

mining holding company has the meaning given to it by **section CU 28** (Other definitions)

mining licence has the meaning given to it by section 2 of the Petroleum Act 1937

mining operations has the meaning given to it by **section CU 25** (Mining operations)

mining or prospecting right has the meaning given to it by **section CU 28** (Other definitions)

mining outgoing excess has the meaning given to it by **section DU 1** (When mining company has mining outgoing excess)

mining prospecting information has the meaning given to it by **section CU 28** (Other definitions)

mining purposes has the meaning given to it by **section CU 28** (Other definitions)

mining share has the meaning given to it by **section CU 28** (Other definitions)

mining venture has the meaning given to it by **section CU 26** (Mining venture)

Minister means the Minister of Finance

minor is defined in **section HH 3F** (Definitions of guardian, minor, and relative) for the purposes of **sections HH 3A to HH 3E** (which relate to the beneficiary income of minors), **LB 1** (Determination of amount of credit in certain cases), and **LB 1A** (Treatment of imputation credits of beneficiary minor)

money,—

- (a) in the financial arrangements rules, and in the definition of **security payment**, includes—
 - (i) money's worth, whether or not convertible into money:

- (ii) the right to money, including the deferral or cancellation of some or all of an obligation to pay money:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

money lent means—

- (a) an amount of money that a person provides in some way, including by depositing it in an account, whether or not the provision is secured or evidenced in writing:
- (b) an amount of credit that a person gives, including by not enforcing a debt, whether or not the giving is secured or evidenced in writing:
- (c) an amount of money that a person provides, or credit that a person gives, under an obligation or arrangement, whether or not secured or evidenced in writing:
- (d) an amount of money that goes from a person (**person A**) to another person (**person B**) in consideration for person B's promise to pay person A an amount of money and that is less than the amount that person B promises to pay person A. For the purposes of this paragraph,—
 - (i) money goes from person A when it is paid, distributed, or credited to, or dealt with in the interest or on behalf of, person B:
 - (ii) person B's promise is not required to be secured or evidenced in writing:
 - (iii) person B includes any other person with whom person B is an associated person

monthly instalment plan is defined in **section EZ 3(3)** (Base premium for 1998–99 premium year under Accident Insurance Act 1998) for the purposes of that section

monthly remittance certificate means a monthly remittance certificate under **section NC 15** (Payment of tax deductions to Commissioner)

mortality profit means the amount calculated by a life insurer following the steps in **section EY 25(2)** (Mortality profit: when life insurers providing life insurance at start of income year) or **EY 26(2)** (Mortality profit: when life insurers not providing life insurance at start of income year), as applicable

mortality profit formula means the formula in **section EY 27** (Mortality profit formula)

mortgage—

- (a) means a mortgage, charge, or other security, whether legal or equitable; for the purposes of this definition, all unpaid purchase money for an estate or interest in land is treated as having been charged on the land; and
- (b) includes a rent charge or annuity

motor vehicle,—

- (a) in **subpart DE** (Motor vehicle expenditure), means a motor vehicle that—
 - (i) is a road vehicle, whenever or however used; and
 - (ii) is not a trailer; and
 - (iii) is of the kind ordinarily used for the carriage of persons or the transport or delivery of goods or animals:
- (b) in the fringe benefit tax rules, and in the definition of **motorcar,—**
 - (i) has the meaning given to it by section 2(1) of the Land Transport Act 1998; and
 - (ii) does not include a vehicle the gross laden weight of which is more than 3,500 kilograms

motorcar,—

- (a) in **section EZ 12** (Amount of depreciation loss for plant or machinery additional to **section EZ 11** amount), and in the definition of **qualifying item,—**
 - (i) means a motor vehicle designed exclusively or mainly to carry up to 9 people, including the driver; and
 - (ii) includes such a motor vehicle that has rear doors and collapsible rear seats; and
 - (iii) does not include a moped or a motor cycle:
- (b) in the fringe benefit tax rules, and in the definition of **work-related vehicle,—**
 - (i) means a motor vehicle designed exclusively or mainly to carry people:
 - (ii) includes such a motor vehicle that has rear doors or collapsible rear seats:
 - (iii) does not include a minibus, moped, motor cycle, or taxicab

national is defined in **section LC 1(6)** (Credits in respect of tax paid in country or territory outside New Zealand) for the purposes of that section

national average market value, for a class of livestock and for an income year, means the national average market value determined under **section EC 16** (Setting national average market values) for livestock of the class for the income year

national standard cost scheme means the livestock valuation method specified in **section EC 17** (National standard cost scheme)

natural gas means the gaseous mixtures of petroleum, in a stabilised form, that—

- (a) remain after the separation of crude oil or condensate from the wellstream in the production facilities; and
- (b) have not been subjected to further processing

net income means net income for a tax year calculated under **section BC 4** (Net income and net loss)

net loss—

- (a) means a net loss for a tax year calculated under **section BC 4** (Net income and net loss) and reduced by the amount written off by the Commissioner under section 177C(4) of the Tax Administration Act 1994; and
- (b) includes a loss incurred by a person before the 1997–98 tax year that the person would have been entitled to claim in the year or to carry forward to a later tax year under **section IE 1** (Net losses may be offset against future net income) or **IF 1** (Net losses may be offset against future net income), if the Taxation (Core Provisions) Act 1996 had not been passed

net mining loss means the amount by which a mining company's income from mining for an income year is less than the mining company's deductions that are for expenditure incurred in deriving income from mining and are allocated to the income year

net specified income, for a person and for a specified period, means the amount of the difference between—

- (a) an amount calculated using the formula—

$$\frac{a \times 52}{b}$$

where—

- a is an amount equal to so much of the person's net income for the tax year containing the specified

- period as, in the Commissioner's opinion, is attributable to the weeks in which, in the specified period, the person is a full-time earner
- b is the number of weeks in which, in the specified period, the person is a full-time earner; and
- (b) an amount equal to the amount that would be the person's income tax liability if—
- (i) the amount calculated under **paragraph (a)** were the person's net income; and
- (ii) any rebate of tax allowed under **section KC 1** (Low income rebate) were taken into account

new item has the meaning given to it by **section EZ 19** (New item)

new provisional taxpayer, for a tax year, means a provisional taxpayer who,—

- (a) in the case of a taxpayer who is not a natural person, or who is a natural person and a trustee of a trust,—
- (i) first started to derive income from a taxable activity in the tax year; and
- (ii) did not derive income from a taxable activity in any of the 4 previous tax years; and
- (b) in the case of a taxpayer who is a natural person and not a trustee of a trust,—
- (i) did not have residual income tax of more than \$2,500 in any of the 4 previous tax years; and
- (ii) has residual income tax of \$35,000 or more in the current tax year; and
- (iii) has, in the current tax year, both ceased to derive income from employment and, after so ceasing, started to derive income from a taxable activity

New Zealand includes—

- (a) the continental shelf;
- (b) the water and the air space above any part of the continental shelf that is beyond New Zealand's territorial sea (as defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) if any exploration or exploitation in connection with or in relation to the part or any natural resource of the part is, or is to be, or may be, carried on, carried out, or undertaken, to the extent to which—

- (i) the exploration or exploitation involves or will involve, or includes or will include, any activity or operation on, or in, or in connection with, or in relation to the water or air space; and
- (ii) any act, matter, circumstance, or thing that is done or is to be done, or that arises or will arise, or that occurs or will occur in connection with, or in relation to, the exploration or exploitation is, or will be, an act, or a matter, or a circumstance, or a thing that involves, or is connected with, or relates to the water or air space or any activity or operation on, or in, or in connection with, or in relation to the water or air space

New Zealand business means the part of the business of a life insurer not resident in New Zealand that consists of the offering or being offered, or the entering into, in New Zealand, of life insurance policies or life reinsurance policies

New Zealand company means a company incorporated in New Zealand

New Zealand group debt percentage means, for a person and for an income year, the percentage calculated under **section FG 4** (Rules for calculating New Zealand group debt percentage)

New Zealand-new item has the meaning given to it by **section EZ 20** (New Zealand-new item)

New Zealand repatriation amount has the meaning given to it by **section CD 36** (New Zealand repatriation amount)

New Zealand resident means a person resident in New Zealand under—

- (a) **section EY 48** (Non-resident life insurer may become resident):
- (b) **section OE 1** (Determination of residence of person other than company):
- (c) **section OE 2** (Determination of residence of company)

New Zealand superannuation—

- (a) means New Zealand superannuation paid or payable under—
 - (i) Part 1 of the New Zealand Superannuation Act 2001; or

- (ii) Part 1 of the Social Welfare (Transitional Provisions) Act 1990; and
- (b) includes—
 - (i) a living alone payment paid or payable to a New Zealand superannuitant under section 13 of the New Zealand Superannuation Act 2001; and
 - (ii) a living alone payment paid or payable to a New Zealand superannuitant under section 18A of the Social Welfare (Transitional Provisions) Act 1990; and
 - (iii) an amount paid under section 70(3)(b) of the Social Security Act 1964; and
 - (iv) national superannuation paid or payable, before 1 April 1994, under Part 1 of the Social Welfare (Transitional Provisions) Act 1990; and
- (c) does not include—
 - (i) portable New Zealand superannuation; or
 - (ii) a transitional retirement benefit paid or payable under Part 1 of the Social Welfare (Transitional Provisions) Act 1990; or
 - (iii) a supplement or benefit paid or payable under any of sections 61DB, 61DC, 61DD, 61DE, 61EA, 61G, and 69C of the Social Security Act 1964

New Zealand superannuitant, for a tax year,—

- (a) means a person who receives New Zealand superannuation in the tax year; and
- (b) does not include a person who receives New Zealand superannuation at a rate specified in—
 - (i) schedule 1, clause 2 of the New Zealand Superannuation Act 2001; or
 - (ii) schedule 1, clause 2 of the Social Welfare (Transitional Provisions) Act 1990

New Zealand tax means income tax imposed by this Act or any earlier Act

nominated company, for a consolidated group, means the company for the time being nominated as agent of the group under **section FD 4(2)** (Formation of consolidated group) or **FD 6** (Nominated companies)

nominee is defined in **section OD 9(2)** (Nominees are transparent) for the purposes of that section

non-cash dividend means a dividend to the extent to which it does not consist of—

- (a) an unconditional payment in money; or
- (b) an unconditional credit in money to the balance of a shareholder's current or other form of account with the company

non-concessionary rate of interest, for an employment-related loan made on or before 31 March 1985, means the rate of interest declared by regulations to be the non-concessionary rate of interest for the period of 12 consecutive months, ending on 31 March, in which the loan was made

non-contingent fee means a fee that—

- (a) is for services provided for a person becoming a party to a financial arrangement; and
- (b) is payable whether or not the person becomes a party to the financial arrangement

non-executive director has the meaning given to it by **section CD 12(5)** (Benefits of shareholder-employees or directors)

non-filing taxpayer means—

- (a) a person to whom section 33A(1) of the Tax Administration Act 1994 applies and to whom 1 of the following applies:
 - (i) they do not receive an income statement for a tax year; or
 - (ii) the Commissioner is not required to send them an income statement for a tax year; or
 - (iii) the Commissioner is prohibited from sending them an income statement for a tax year; or
- (b) a person who chooses not to file a return for a tax year for specified payments derived in the person's capacity as a non-resident entertainer; or
- (c) a person who, in the relevant tax year, derives only non-resident withholding income to which **section NG 3** (Non-resident withholding tax to be final tax in certain cases) applies

non-listed livestock means livestock other than bloodstock, high-priced livestock, and listed livestock

non-participating redeemable share is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

non-qualifying trust, for a trust and for a time at which a distribution is made from the trust, means a trust that is not—

- (a) a qualifying trust; or
- (b) a foreign trust; or
- (c) a unit trust

non-recourse loan is defined in **section DS 7** (Some definitions) for the purposes of **subpart DS** (Film industry expenditure)

non-refundable credit means—

- (a) a credit allowed to a person under **Part L** (Credits) for tax paid in a country or territory outside New Zealand;
- (b) an amount in a person's branch equivalent tax account or policyholder credit account that the person elects, under **Part M** (Tax payments), to credit in payment of income tax

non-resident means a person who is not a New Zealand resident

non-resident aircraft operator is defined in **section CW 41(3)** (Non-resident aircraft operators) for the purposes of that section

non-resident company has the meaning given to it by **section OE 2** (Determination of residence of company)

non-resident entertainer is defined in **section CW 16(4)** (Amounts derived by visiting entertainers (including sports-persons)) for the purposes of that section

non-resident mining operator has the meaning given to it by **section CU 28** (Other definitions)

non-resident person is defined in **section CW 17(3)** (Amounts derived by overseas experts and trainees in New Zealand by government arrangement) for the purposes of that section

non-resident petroleum mining operator means a person—

- (a) who is not a company; and
- (b) who is not resident in New Zealand; and
- (c) who carries on 1 or more petroleum mining ventures; and
- (d) who, in the Commissioner's opinion, would be at an unfair disadvantage if the venture was, or the ventures were, carried on by a petroleum mining company under the control of the person; and
- (e) whose sole source of mining income in New Zealand is from the venture or ventures

non-resident taxpayer is defined in **section HK 24(4)** (Liability as agent of employer of non-resident taxpayer and employer's agent) for the purposes of that section

non-resident trader means a person who—

- (a) is in New Zealand; and
- (b) carries on business there without having a fixed and permanent place of business or abode there

non-resident withholding income means dividends, interest, investment society dividends, and royalties to which **section NG 1** (Application of NRWT rules) applies

non-resident withholding tax means non-resident withholding tax payable under **section NG 2** (Non-resident withholding tax imposed)

non-standard accounting year has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

non-standard balance date has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

non-standard income year has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

non-taxable bonus issue means a bonus issue that is not a taxable bonus issue

normal retiring age is defined in **section DC 14** (Some definitions) for the purposes of **sections DC 11 to DC 14** (which relate to share purchase schemes)

notice has the meaning given to it by **sections 14 to 14B** of the Tax Administration Act 1994

notify means to give notice

notional income tax liability is defined in **section LC 14(4)** (Ascertainment of New Zealand income tax liability) for the purposes of that section

NRWT rules means—

- (a) the following provisions:
 - (i) **section LD 2** (Non-resident withholding tax: credit allowed);
 - (ii) **subpart NG** (Non-resident withholding tax); and

- (b) sections 49, 100, 139B, 143A(1)(d) and (e), 143B(1)(d), and 185 and Part 9 of the Tax Administration Act 1994

offered or entered into in New Zealand, for an insurance contract and a reinsurance contract and a life insurance policy and a life reinsurance policy, means a contract or policy offered or entered into in New Zealand, whether or not—

- (a) the contract or policy is executed in New Zealand; or
- (b) the insurer under the contract or policy—
 - (i) is resident in New Zealand; or
 - (ii) has a fixed establishment in New Zealand; or
 - (iii) has an agent in New Zealand

off-market cancellation means a share cancellation that is not an on-market cancellation

offshore development is defined in **section EJ 17** (Meaning of offshore development) for the purposes of **section EJ 10** (Petroleum development expenditure)

old financial arrangements rules means—

- (a) the following provisions:
 - (i) **sections EZ 30 to EZ 49** (which relate to the old financial arrangements rules):
 - (ii) **section FF 2** (Financial arrangements), as that section was before the commencement of the Taxation (Accrual Rules and Other Remedial Matters) Act 1999:
 - (iii) **section NG 16A** (Variation in non-resident withholding tax deductions to correct errors); and
- (b) the following provisions of the Tax Administration Act 1994:
 - (i) section 60 (as in force before the enactment of section 70 of the Taxation (Accrual Rules and Other Remedial Matters) Act 1999):
 - (ii) section 90

on-market cancellation means an acquisition by a company of a share in the company if—

- (a) the company acquires the share in a transaction occurring on a recognised exchange, through a broker or some other similar agent independent of the company; and

- (b) before the transaction, no arrangement existed between the shareholder and the company for the company to acquire the share; and
- (c) the acquisition is not a treasury stock acquisition to which **section CD 17** (Treasury stock acquisitions) applies (but this paragraph does not limit the application of **section CD 17(2) to (6)**)

onshore development is defined in **section EJ 18** (Meaning of onshore development) for the purposes of **section EJ 10** (Petroleum development expenditure)

opening value, in **section EA 1** (Trading stock, livestock, and excepted financial arrangements) **and subparts EB** (Valuation of trading stock (including dealer's livestock)) **and EC** (Valuation of livestock), has the meaning given to it by **section EA 1(7)** (Trading stock, livestock, and excepted financial arrangements)

operating lease means a lease that—

- (a) is not a finance lease; and
- (b) is entered into on or after 20 May 1999

operational area has the meaning given to it by **section CW 18(4)** (Income for military service in operational area) for the purposes of that section

option, in **sections FF 1** (Shares or options), **GC 3** (Effect on continuity provisions of change in beneficiaries of trust), **and OD 3 to OD 5** (which relate to the measurement of control or ownership interests), and in the definitions of **excluded option**, **market value (paragraphs (b), (e), and (f))**, **market value circumstance**, **pre-1991 budget security**, **recognised exchange**, and **shareholder decision-making rights**, includes an agreement for sale at a time when beneficial ownership of the property sold has not completely passed to the purchaser

ordering rule means the rule set out in **section CD 15(1) and (2)** (Ordering rule and slice rule) for calculating the amount of available subscribed capital per share

other amortisation provision means a provision of this Act that has similar intent and application to **sections EE 1** (What this subpart does), **EZ 28** (Buying patent rights before 1 April 1993), **and EZ 29** (Premium paid on land leased before 1 April 1993)

outgoing is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

output tax has the meaning given to it by section 2 of the Goods and Services Tax Act 1985

outstanding balance,—

(a) in **sections FC 6** (Effect of specified lease on lessor and lessee) and **FC 7** (Income of lessor under specified lease), means the amount calculated using the formula—

$$(a + b) - c$$

where—

- a is all loans advanced under the lease by the lessor for the period—
- (i) starting on the date that the lease started; and
 - (ii) ending on the date immediately before the start of the instalment period
- b is every amount of interest payable for every such loan for the period—
- (i) starting on the date that the lease started; and
 - (ii) ending on the date immediately before the start of the instalment period
- c is the total amount of all instalments paid by the lessee in the period—
- (i) starting on the date that the lease started; and
 - (ii) ending on the date immediately before the start of the instalment period:
- (b) in **section FC 8C** (Termination of finance lease), includes principal, interest, and penalties that are owing by the lessee to the lessor on the date that the lease is terminated

overseas company means a company other than one incorporated in New Zealand

overseas pension is defined in **section CW 22(2)** (Pensions) for the purposes of that section

owner, for land, means—

- (a) a person who is the owner of an estate or interest in the land, alone or jointly or in common with any other person; or

- (b) a person who is treated by this Act as the owner of an estate or interest in the land, alone or jointly or in common with any other person

parental tax credit means,—

- (a) for the purpose of calculating a component of and interim instalment of credit of tax for a period under **section KD 5** (Credit of tax by instalments), the component of the instalment given by **section KD 5B(4A)** (Rates for interim instalments for period beginning on or after 1 July 1998):
- (b) for any other purpose, the component of the subpart KD credit given by **section KD 2(5)** (Calculation of subpart KD credit)

Part E timing rules means a set of provisions in **Part E** (Timing and quantifying rules) that allocates an amount of income or deduction to a tax year and may also quantify the amount

partial reinsurance has the meaning given to it by **section EY 11(3)** (Meaning of life reinsurance)

participating share is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

partner is defined in **section NF 10(6)** (Unincorporated bodies) for the purposes of that section

partnership is defined in **section NF 10(6)** (Unincorporated bodies) for the purposes of that section

partnership income is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

partnership loss is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

partnership net income is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

patent rights means the right to do or authorise the doing of anything that would, but for the right, be an infringement of a patent

pay,—

- (a) in **subpart CD** (Income from equity), **section GC 24** (Application of specific imputation provisions to consolidated groups), **subpart HG** (Qualifying companies), **sections KH 2**

(Calculation of percentage of shareholders not resident), **MD 1** (Refund of excess tax), **and MD 3** (Refund of income tax not to exceed amount of credit balance), **subparts ME** (Imputation credit accounts) **and MF** (Branch equivalent tax accounts), **and sections NH 7** (Reduction in liability under conduit tax relief) **and OB 6** (Meaning of income tax), in the consolidation rules, the dividend withholding payment rules, and the imputation rules, and in the definitions of **benchmark dividend**, **combined imputation and dividend withholding payment ratio**, **dividend (paragraph (e))**, **dividend withholding payment**, **dividend withholding payment deduction**, **dividend withholding payment ratio**, **imputation ratio**, **shareholder dividend statement**, and **subsequent dividend**,—

- (i) includes, for a person, to distribute or credit to them or deal with in their interest or on their behalf in some other way; and
 - (ii) for a dividend that is a bonus issue, means to issue shares or to give credit for the shares comprising the bonus issue:
- (b) in **sections EA 3** (Prepayments) **and EI 7** (Matching rule for employment income of shareholder-employee), includes, for a person,—
- (i) to accumulate, capitalise, credit in account, or reinvest for them; or
 - (ii) to carry to an insurance, reserve, or sinking fund for them; or
 - (iii) to deal with in their interest or on their behalf in some other way:
- (c) in **section ND 1E(2)** (Employment-related loans: repayment), in the RWT rules, and in the definition of **specified dividends**, for resident withholding income, includes, for a person,—
- (i) to distribute to them; or
 - (ii) to credit to them; or
 - (iii) to apply on their account; or
 - (iv) to deal with in their interest or on their behalf in some other way:
- (d) in the NRWT rules, and in the definition of **dividends (paragraph (c))**, for non-resident withholding income, includes, for a person,—

- (i) to distribute to them; or
 - (ii) to credit to them; or
 - (iii) to deal with in their interest or on their behalf in some other way:
- (e) for interest or a redemption payment that is income or non-resident withholding income derived by a person from money lent by them, includes—
- (i) to distribute to them; or
 - (ii) to credit to them; or
 - (iii) to deal with in their interest or on their behalf in some other way:
- (f) in **section OE 4** (Classes of income treated as having source in New Zealand), includes, for a person,—
- (i) to distribute to them; or
 - (ii) to credit to them; or
 - (iii) to deal with in their interest or on their behalf in some other way:
- (g) for an insurance contract and a reinsurance contract and a life insurance policy and a life reinsurance policy, includes, for a person,—
- (i) to distribute to them; or
 - (ii) to credit to them; or
 - (iii) to deal with in their interest or on their behalf in some other way

pay and allowances is defined in **section CW 18(4)** (Income for military service in operational area) for the purposes of that section

pay period, for an employee receiving regular payments of salary or wages, means the period for which any such payment is made or payable

PAYE period is defined in **section NC 15(8)** (Payment of tax deductions to Commissioner) for the purposes of that section

PAYE rules means—

- (a) the following provisions:
- (i) **section BC 1** (Non-filing and filing taxpayers):
 - (ii) **section GC 18** (Agreements not to make tax deductions to be void):
 - (iii) **section LD 1** (Tax deductions to be credited against tax assessed):
 - (iv) **subpart NC** (Withholding of tax by employers: PAYE); and

- (b) sections 24, 48, 133, 139B, 143A(1)(d) and (e), 143B(1)(d), and 167 to 169 and Part 9 of the Tax Administration Act 1994

payer, in the RWT rules, means a person who makes a payment of resident withholding income

payment, in the cases described in **paragraphs (a) to (g)** of the definition of **pay**, has a meaning corresponding to the relevant paragraph

payment relating to incapacity for work is defined in **section CW 27(2)** (Compensation payments) for the purposes of that section

payment period means the 56 days after the date an application is made to receive the parental tax credit

pension is defined in **section CF 1(2)** (Benefits, pensions, compensation, and government grants) for the purposes of that section

period of restriction is defined in **section DC 14(2) to (4)** (Some definitions) for the purposes of **sections DC 11 to DC 14** (which relate to share purchase schemes)

permit has the meaning given to it by section 2 of the Crown Minerals Act 1991

permit area means the area of land covered by a petroleum permit

person—

- (a) is defined in **section EH 3(3)** (Persons to whom main income equalisation scheme applies) for the purposes of the main income equalisation scheme:
- (b) is defined in **section EH 38(2)** (Persons to whom adverse event income equalisation scheme applies) for the purposes of the adverse event income equalisation scheme:
- (c) is defined in **section EH 65(2)** (Persons to whom thinning operations income equalisation scheme applies) for the purposes of the thinning operations income equalisation scheme

personal property, in **sections CB 3** (Personal property acquired for purpose of disposal) **and CB 4** (Business of dealing in personal property) does not include land or an interest in land

petroleum has the meaning given to it by section 2 of the Crown Minerals Act 1991

petroleum development expenditure—

- (a) means expenditure incurred by a petroleum miner that—
 - (i) directly concerns a permit area; and
 - (ii) is for acquiring, constructing, or planning petroleum mining assets; but
- (b) does not include—
 - (i) residual expenditure; or
 - (ii) petroleum exploration expenditure; or
 - (iii) other expenditure allowed as a deduction under any provision of the Act (other than a provision in **subpart DT** (Petroleum mining expenditure) or **DZ** (Terminating provisions)) that is allocated to the income year in which the expenditure is incurred

petroleum exploration expenditure—

- (a) means—
 - (i) exploratory well expenditure; and
 - (ii) prospecting expenditure; and
 - (iii) expenditure to acquire a prospecting licence, a prospecting permit for petroleum, or an exploration permit for petroleum; and
- (b) does not include—
 - (i) residual expenditure; or
 - (ii) expenditure that is required to be treated as petroleum development expenditure

petroleum miner has the meaning given to it by **section CT 6** (Meaning of petroleum miner)

petroleum mining asset has the meaning given to it by **section CT 7** (Meaning of petroleum mining asset)

petroleum mining company means a company to which **section IH 2** (Companies engaged in exploring for, searching for, or mining petroleum) applies

petroleum mining development expenditure is defined in **section DZ 4(4)** (Petroleum mining: development expenditure from 1 October 1990 to 15 December 1991) for the purposes of that section

petroleum mining operations—

- (a) means any of the following activities:

- (i) developing a permit area for producing petroleum:
- (ii) producing petroleum:
- (iii) processing, storing, transmitting petroleum before its dispatch to a buyer, consumer, processor, refinery, or user:
- (iv) removal or restoration operations; and
- (b) does not include the further treatment (other than treatment at the production facilities) crude oil, condensate, or natural gas, after the well stream has been separated and stabilised into those substances,—
 - (i) by liquefaction or compression:
 - (ii) for the extraction of constituent products:
 - (iii) for the production of derivative products

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

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

petroleum mining or prospecting right—

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

petroleum mining venture—

- (a) means a venture that—
 - (i) is carried on, or is proposed to be carried on, in New Zealand, as a business; and
 - (ii) consists, or is proposed to consist, solely of prescribed activities carried on, or proposed to be carried on, in New Zealand; and
- (b) does not include, as a venture of a person and others, the carrying on of a prescribed activity by the person otherwise than jointly with the other person or persons with whom the prescribed activities are carried on or are proposed to be carried on

petroleum permit means—

- (a) a permit that relates to petroleum; and
- (b) a prospecting licence; and
- (c) a mining licence

petroleum-related depreciable property has the meaning given to it by **section EE 57** (Other definitions)

physical cost of production is defined in **section DZ 3(3)** (Film reimbursement scheme on or before 30 June 2001) for the purposes of that section

policyholder base, for a life insurer and for an income year, means the benefits accruing to policyholders by way of claims paid and payable and amounts included in the life insurer's actuarial reserves

policyholder base income tax liability means the schedular income tax liability for a tax year of a life insurer for the policyholder base, determined under **section BC 7** (Income tax liability of person with schedular income)

policyholder credit account means the account to be maintained by a policyholder credit account company or a policyholder credit account person under **section ME 15** (Resident life insurance companies to maintain policyholder credit account) or **ME 21** (Person may elect to maintain policyholder credit account)

policyholder credit account company means a company that is required by **section ME 15** (Resident life insurance companies to maintain policyholder credit account) to maintain a policyholder credit account

policyholder credit account person means a person who—

- (a) is not a company resident in New Zealand; and
- (b) has made an election under **section ME 21(1)** (Person may elect to maintain policyholder credit account); and
- (c) is required by **section ME 21(2)** (Person may elect to maintain policyholder credit account) to maintain a policyholder credit account

policyholder income means a positive result of the application of the policyholder income formula

policyholder income formula means the formula in **section EY 42** (Policyholder income formula)

policyholder net loss means a negative result of the application of the policyholder income formula

pool has the meaning given to it by **section EE 57** (Other definitions)

pool method has the meaning given to it by **section EE 57** (Other definitions)

poolable property has the meaning given to it by **section EE 56** (Poolable property)

portable New Zealand superannuation means New Zealand superannuation paid or payable overseas under any of—

- (a) sections 26 to 29 and 31 of the New Zealand Superannuation Act 2001; or
- (b) sections 17, 17BA, or 19 of the Social Welfare (Transitional Provisions) Act 1990

portable veteran's pension means a veteran's pension paid or payable overseas under any of sections 17, 17BA, and 19 of the Social Welfare (Transitional Provisions) Act 1990

possession includes a use that is in fact or effect substantially exclusive, whether by virtue of a right of exclusive occupation or not

pre-1983 mortgage repayment insurance policy means a single premium non-profit life insurance policy issued on or before 31 March 1983, under which the amount assured is related to the amount outstanding on a mortgage of land

pre-1991 budget security means a fixed rate share, or a debenture to which **section FC 1** (Floating rate of interest on debentures) or **FC 2** (Interest on debentures issued in substitution for shares) applies, that—

- (a) was itself issued by the company before 8.00 pm New Zealand Standard Time on 30 July 1991 (**specified time**), or was issued under a binding contract entered into before the specified time no term of which is altered at any time after the specified time; and
- (b) is not a share or debenture any term of which is altered at any time after the specified time (whether under a provision for roll-over or extension or under an option held at the specified time by the shareholder or debenture holder or the company or both or by any other person or otherwise), except when the term is altered under a binding contract entered into before the specified time no term of which is altered at any time after the specified time

preceding year is defined in **section ND 14(9)** (Payment of fringe benefit tax on income year basis for shareholder-employees) for the purposes of that section

premium—

- (a) for life insurance,—
 - (i) means any consideration, however described, payable under a life insurance policy to a life insurer; and
 - (ii) does not include interest on an unpaid premium:
- (b) is defined in **section EZ 29(5)** (Premium paid on land leased before 1 April 1993) for the purposes of that section:
- (c) is defined in **section FC 13(9)** (Premiums derived by non-resident general insurers treated as being derived from New Zealand) for the purposes of **sections FC 13 to FC 17** (which relate to non-resident general insurers)

premium loading means the amount calculated by a life insurer following the steps in **section EY 15(2)** (Premium loading: when life insurers providing life insurance at start of income year) or **EY 16(2)** (Premium loading: when life insurers not providing life insurance at start of income year), as applicable

premium loading formula means the formula in **section EY 17(1)** or the formula in **section EY 17(2)** (Premium loading formulas)

prescribed means—

- (a) prescribed by regulations under this Act; or
- (b) prescribed by the Commissioner

prescribed amount has the meaning given to it by **section DU 9(4)** (Resident mining operators)

prescribed interest is defined in **section ND 1G** (Meaning of prescribed interest) for the purposes of **sections ND 1E** (Employment-related loans: repayment) and **ND 1F** (Employment-related loans: regulations)

prescribed period has the meaning given to it by **section CU 28** (Other definitions)

prescribed proportion has the meaning given to it by **section CU 28** (Other definitions)

prescribed rate of interest means the rate of interest declared by regulations made under **section ND 1F** (Employment-related

loans: regulations) to be the rate applying to employment-related loans

price,—

- (a) in **subpart EB** (Valuation of trading stock (including dealer's livestock)), for the replacement of the trading stock of a person, does not include an amount of input tax for the supply of the replacement trading stock to the person:
- (b) is defined in **section ND 1J(3)** (Goods: value of benefit) for the purposes of that section:
- (c) is defined in **section ND 1K(2)** (Services: value of benefit) for the purposes of that section:
- (d) is defined in **section ND 1P** (Definitions for **sections ND 1N and ND 10**) for the purposes of **sections ND 1N** (Goods at staff discount) and **ND 10** (Goods on special with staff discount)

primary employment earnings, for an employee and for a pay period, means a source deduction payment that is not a withholding payment or an extra pay and that is selected as follows:

- (a) if the employee derives the payment in the pay period from 1 employer, the payment:
- (b) if the employee derives payments in the pay period from 2 or more employers, the larger or largest payment:
- (c) if the employee derives payments in the pay period from 2 or more employers and 2 or more of the payments are of the same amount, the payment that is the same amount as another payment that the employee chooses

primary producer co-operative company is defined in **section CZ 12(4)** (Primary producer co-operative companies: 1987–88 income year) for the purposes of that section

principal caregiver, for a dependent child,—

- (a) means the person, whether or not a parent of the child, who, in the opinion of the Commissioner, has the primary responsibility for the day to day care of the child, other than on a temporary basis; and
- (b) does not include a body of persons, whether incorporated or unincorporated; and

- (c) does not include a person who is the proprietor of, or employed in,—
- (i) a residence established under the Children, Young Persons, and Their Families Act 1989; or
 - (ii) a residential disability care institution (within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001); or
 - (iii) any other institution in which the child is being cared for

private domestic worker means a person employed by any other person if—

- (a) the employer is the occupier, or 1 of the occupiers, of a dwellinghouse or other premises used exclusively for residential purposes; and
- (b) the employment is for the performance of work in or about the dwellinghouse or premises or the garden or grounds belonging to the dwellinghouse or premises; and
- (c) the employment is not for a business carried on by the employer or an occupation or calling of the employer; and
- (d) the employment is not regular full-time employment

private limitation has the meaning given to it by **section DA 2(2)** (General limitations)

private or domestic agreement for the sale and purchase of property is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

private use has the meaning given to it by **section CX 31** (Meaning of private use)

pro rata cancellation, for shares of the same class in a company, means the cancellation of—

- (a) all the shares in the class; or
- (b) part only of the shares in the class if the cancellation does not alter any person's voting interest (or market value interest, if a market value circumstance exists at the time in relation to the company) in the company, determined as if no other class of shares existed; or
- (c) part only of the shares in the class if the cancellation results from an offer from the company to all shareholders in the class and the resulting cancellation would

have met **paragraph (b)** if each shareholder who received the offer accepted it in full

produce transactions,—

- (a) in **sections CD 24** (Payments corresponding to notional distributions of producer boards and co-operative companies), **HF 1** (Profits of mutual associations in respect of transactions with members), and **ME 30 to ME 32** (which relate to imputation credit accounts of statutory producer boards), and in the definition of **member (paragraph (a))**, means transactions between a statutory producer board and its members involving the acceptance by the board of produce that is trading stock, or goods that are trading stock, from its members in terms of the board's primary statutory functions:
- (b) in **sections CD 24** (Payments corresponding to notional distributions of producer boards and co-operative companies) and **ME 35 to ME 37** (which relate to imputation credit accounts of co-operative companies), and in the definition of **shareholder (paragraph (d))**, means transactions that—
 - (i) are between a co-operative company and its shareholders; and
 - (ii) involve the acceptance of produce that is trading stock or goods that are trading stock; and
 - (iii) are purchases or other acquisitions of the produce or goods by the company from its shareholders, if a principal activity of the company involves the acceptance of such produce or goods from its shareholders:
- (c) in **sections CD 24** (Payments corresponding to notional distributions of producer boards and co-operative companies) and **ME 35 to ME 37** (which relate to imputation credit accounts of co-operative companies), and in the definition of **shareholder (paragraph (d))**, also means transactions that—
 - (i) are between a co-operative company and its shareholders; and
 - (ii) involve the supply of produce that is trading stock or goods that are trading stock; and
 - (iii) are sales or other disposals of the produce or goods by the company to its shareholders, if a principal activity of the company involves the

supply of such produce or goods to its shareholders

producer board has the same meaning as **statutory producer board**

profit is defined in **section DB 22(5)** (Changes in permitted use of land) for the purposes of that section

profit-sharing arrangement means an arrangement under which—

- (a) a person (**person A**) makes listed livestock available, without specifying a fee for doing so, to another person (**person B**) who carries on a business in which the livestock are used; and
- (b) any return or compensation that person A receives for making the livestock available depends on the profits of the business; and
- (c) person A participates in the profits and losses of the business; and
- (d) if a partnership between person A and person B arises, person A is bound by the requirements of the Partnership Act 1908 for third parties

property,—

- (a) in **sections CB 29** (Obtaining property by theft) and **DB 35** (Restitution of stolen property), includes money and money's worth:
- (b) in **subpart EE** (Depreciation), includes consents granted in or after the 1996–97 tax year under the Resource Management Act 1991:
- (c) in the life insurance rules, includes any real or personal property:
- (d) in the financial arrangements rules, and in the definitions of **agreement for the sale and purchase of property or services, forward contract, right, short-term agreement for the sale and purchase of property or services, short-term option, and specified option,—**
 - (i) means any property, whether real or personal, legal or equitable, or tangible or intangible; and
 - (ii) does not include a financial arrangement or foreign exchange:
- (e) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

prospecting expenditure—

- (a) means expenditure to identify land likely to contain exploitable petroleum deposits or occurrences; and
- (b) includes prospecting for petroleum by electrical, geo-chemical, gravimetric, magnetic, radioactive, seismic, or other geological methods; and
- (c) does not include residual expenditure

prospecting licence has the meaning given to it by section 2 of the Petroleum Act 1937

prospecting permit has the meaning given to it by section 2 of the Crown Minerals Act 1991

protected amount is defined in **section HE 2(3)** (Group investment funds) for the purposes of that section

protective right is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

provisional rate has the meaning given to it by **section EE 57** (Other definitions)

provisional tax means an amount payable as provisional tax under the provisional tax rules

provisional tax rules means—

- (a) the following provisions:
 - (i) **section LD 6** (Allowance for provisional tax paid by agent):
 - (ii) **section LD 7** (Provisional tax to be credited against income tax liability):
 - (iii) **sections MB 1A to MB 6** (which relate to provisional tax):
 - (iv) **sections MB 8 to MB 10** (which relate to provisional tax):
 - (v) **section MB 12** (Application of other provisions to provisional tax):
 - (vi) **section MC 1** (Payment of terminal tax by provisional taxpayer); and
- (b) sections 119, 139B, and 178 of the Tax Administration Act 1994

provisional taxpayer, for a tax year,—

- (a) means a taxpayer—
 - (i) whose residual income tax for the tax year is \$2,500 or more; or

- (ii) who makes an election under **section MB 2A** (Election to be provisional taxpayer); and
- (b) does not include—
 - (i) a company that does not have a fixed establishment in New Zealand and is not treated as resident in New Zealand; or
 - (ii) a taxpayer to whom section 33A of the Tax Administration Act 1994 applies; or
 - (iii) a non-resident contractor within the meaning of regulation 2 of the Income Tax (Withholding Payments) Regulations 1979 who has not been issued with an exemption certificate by the Commissioner for the tax year under regulation 5

public authority—

- (a) means Public Trust, the Maori Trustee, and every other department or instrument of the Executive Government of New Zealand; and
- (b) includes the Christmas Island Phosphate Commission, incorporated in Australia by the Christmas Island Agreement Act 1949 of the Parliament of Australia; and
- (c) is further defined in **section CW 28(5)** (Public authorities) for the purposes of that section

public entertainer is defined in **section CW 15(3)** (Amounts derived during short-term visits) for the purposes of that section

public official is defined in **section DB 36(5)** (Bribes paid to public officials) for the purposes of that section

qualifying amalgamation means an amalgamation in which—

- (a) each of the amalgamating companies and the amalgamated company, at the time of the amalgamation,—
 - (i) is resident in New Zealand; and
 - (ii) is not a company that, under a double tax agreement, is treated as not being resident in New Zealand for the purposes of the agreement; and
 - (iii) is not a company that derives only exempt income; “a company that derives only exempt income” includes a local authority that is not a local authority trading enterprise company and does not include a company whose income is

exempt under **sections CW 9 to CW 11** (which relate to income from equity); and

- (b) each of the amalgamating companies is a qualifying company if the amalgamated company is, immediately after the amalgamation, a qualifying company; and
- (c) each of the amalgamating companies is a loss attributing qualifying company if the amalgamated company is, immediately after the amalgamation, a loss attributing qualifying company; and
- (d) the amalgamating companies and the amalgamated company have not chosen that the amalgamation will not be a qualifying amalgamation by giving notice to the Commissioner, signed for or on behalf of each company, as part of the notice referred to in section 75 of the Tax Administration Act 1994

qualifying capital value has the meaning given to it by **section EZ 21** (Qualifying capital value)

qualifying company has the meaning given to it by **section OB 3(1)** (Meaning of qualifying company)

qualifying company election tax has the meaning given to it by **sections HG 11** (Taxation on election to become qualifying company) and **HG 12** (Payment of qualifying company election tax)

qualifying debenture means—

- (a) a debenture issued by a forestry company for unpaid purchase money for land bought by the forestry company from the Crown or the Maori owners or a holding company of the forestry company; or
- (b) a debenture issued by a forestry company for capitalised interest derived from a debenture described in **paragraph (a)**; or
- (c) a debenture issued by a forestry company for money lent to the forestry company by a holding company for any of the following purposes:
 - (i) financing expenditure by the forestry company on planting or maintaining trees; or
 - (ii) meeting administrative overheads, rates, rent, insurance premiums, or other expenses of the same kind; or

- (iii) paying interest on money borrowed for the purposes of the forestry business and employed as capital in the business; or
- (d) a debenture issued by a forestry company for capitalised interest derived from a debenture described in **paragraph (c)**; or
- (e) a debenture issued by a forestry company for capitalised interest derived from a debenture described in **paragraph (b) or (d)**; or
- (f) a debenture issued by a Maori investment company to a shareholder of the company or a trustee for a shareholder

qualifying improvement has the meaning given to it by **section EZ 22** (Qualifying improvement)

qualifying item has the meaning given to it by **section EZ 23** (Qualifying item)

qualifying payments is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section

qualifying person—

- (a) means a person to whom all the following apply:
 - (i) the person is aged 16 years or over; and
 - (ii) the person is the principal caregiver for 1 or more dependent children; and
 - (iii) either the person has been both resident and present in New Zealand for a continuous period of 12 months at any time, and is tax resident and resident in New Zealand on the date on which a credit of tax is claimed under **section KD 2** (Calculation of subpart KD credit) or **KD 3** (Calculation of family tax credit), or each of the dependent children for whom the person is the principal caregiver is both resident and present in New Zealand; and
 - (iv) the person does not receive a war widows mother's allowance:
- (b) is defined in **section KC 3(3)** (Transitional tax allowance) for the purposes of that section:
- (c) is defined in **section KD 3(1)** (Calculation of family tax credit) for the purposes of that section

qualifying share premium is defined in **section CD 33(26)** (Available subscribed capital amount) for the purposes of that section

qualifying superannuation scheme is defined in **section GD 8(4)** (Superannuation schemes) for the purposes of that section

qualifying trust—

- (a) for a trust, other than a superannuation fund, and for a tax year in which a distribution is made from the trust, means a trust if, in every tax year in the period starting with the tax year in which a settlement was first made to the trust or for the benefit of the trust or on the terms of the trust and ending with the tax year in which the distribution is made,—
 - (i) no amount of trustee income was only non-resident withholding income; or
 - (ii) neither **section BD 1(2)** (Income, exempt income, excluded income, and counted income) nor **HH 4(3B)** (Trustee income) has applied to the trustee of the trust to exclude from income an amount derived from outside New Zealand; and all the trustee's obligations for the trustee's income tax liability have been satisfied; and
- (b) includes a superannuation fund

qualifying unit trust means—

- (a) a unit trust that offers securities to the public under the Securities Act 1978 and that has 100 or more unit holders (treating all associated persons as 1 person) who are—
 - (i) unit trust managers who hold units in the ordinary course of their activities in relation to the unit trust; or
 - (ii) persons with an interest of 25% or less in the unit trust (treating all associated persons as 1 person); or
 - (iii) persons with an interest of 25% or more in the unit trust (treating all associated persons as 1 person), if their interest is 25% or more because of unusual or temporary circumstances, such as

- the recent establishment or forthcoming termination of the unit trust, and if the unit trust would satisfy any of **paragraphs (b), (c), (d), and (e)**; or
- (b) a unit trust whose unit holders are any 1 or more of the following:
 - (i) a qualifying unit trust within the meaning of **paragraph (a)** or this paragraph:
 - (ii) a group investment fund:
 - (iii) a life insurance company:
 - (iv) a superannuation fund:
 - (v) a unit trust manager, a trustee, or a person nominated by the manager or the trustee who holds units in the ordinary course of management activities in relation to the unit trust:
 - (vi) a person with an interest of 25% or less in the unit trust (treating all associated persons as 1 person), if the unit trust offers securities to the public under the Securities Act 1978:
 - (vii) a person with an interest of 25% or more in the unit trust (treating all associated persons as 1 person), if their interest is 25% or more because of unusual or temporary circumstances, such as the recent establishment or forthcoming termination of the unit trust, and if the unit trust would satisfy any of **paragraphs (a), (c), (d), and (e)**, and if the unit trust offers securities to the public under the Securities Act 1978; or
 - (c) a unit trust that has less than 100 unit holders if it could reasonably be regarded as a widely-held investment vehicle for direct investment by members of the public despite its number of unit holders or investors; or
 - (d) a unit trust that has less than 100 unit holders if it has less than 100 unit holders or investors because of unusual or temporary circumstances, such as its recent establishment or forthcoming termination, and if it would otherwise satisfy any of **paragraphs (a), (b), (c), and (e)**; or
 - (e) a unit trust that has less than 100 unit holders if it could reasonably be regarded as a vehicle mainly for investment by widely-held vehicles for direct investment that are 1 or more of the following:
 - (i) unit trusts; or

- (ii) group investment funds; or
- (iii) life insurance companies; or
- (iv) superannuation funds

quarter means a period of 3 consecutive calendar months that ends with the last day of March, June, September, or December

rebate is defined in **section HF 1(9)** (Profits of mutual associations in respect of transactions with members) for the purposes of that section

recognised exchange, at any time,—

- (a) means a recognised exchange market in New Zealand or anywhere else in the world that at the time has the features described in **paragraphs (c) to (e)**; and
- (b) includes a recognised exchange market that at the time is approved for the purposes of this definition by the Commissioner, having had regard to the features described in **paragraphs (c) to (e)**; and
- (c) for the purposes of **paragraphs (a) and (b)**, the first feature is that the exchange market brings together buyers and sellers of shares or options over shares; and
- (d) for the purposes of **paragraphs (a) and (b)**, the second feature is that the exchange market involves the listing of prices, whether by electronic media or other means, at which persons are willing to buy or sell shares or options; and
- (e) for the purposes of **paragraphs (a) and (b)**, the third feature is that the exchange market provides a medium for the determination of arm's length prices likely to prove fair and reasonable, having regard to—
 - (i) the number of participants in the market or having access to the market; and
 - (ii) the frequency of trading in the market; and
 - (iii) the nature of trading in the market, including how prices are determined and transactions are effected; and
 - (iv) the potential or demonstrated capacity of a person or persons significantly to influence the market; and
 - (v) any significant barriers to entry to the market; and
 - (vi) any discrimination on the basis of quantity bought and sold unless based on the risks

involved, the transaction costs, or economies of scale

reconciliation statement means a reconciliation statement under **section NC 15** (Payment of tax deductions to Commissioner)

redemption payment means the amount by which a payment made on the redemption of a commercial bill by the person who issued it is more than the money lent to the person (“issue”, in this definition, having the meaning given to it by section 2 of the Bills of Exchange Act 1908)

reduced deduction, for an employee, means a tax deduction the amount of which is fixed at less than the maximum amount, in accordance with the employee’s tax code

refundable credit means a credit allowed to a person under **Part L** (Credits)—

- (a) for withholding tax or provisional tax; or
- (b) for a dividend withholding payment, if the person is entitled to a refund of the credit under **Part L** (Credits)

refundable rebate means a credit allowed under **subpart KD** (Tax credits for family support and family plus)

registered is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

registered person has the meaning given to it by section 2 of the Goods and Services Tax Act 1985

registered security has the meaning given to it by section 86F of the Stamp and Cheque Duties Act 1971

reinsurance contract includes—

- (a) a cover note;
- (b) a renewal of a reinsurance contract

reinvestment profit has the meaning given to it by **section CU 28** (Other definitions)

related activity is defined in **section IE 2(8)** (Specified activity net losses) for the purposes of that section

related company is defined in **section GD 10(4)** (Leases for inadequate rent) for the purposes of that section

related person is defined in **section CD 34(14) to (16)** (Available capital distribution amount) for the purposes of that section

relative,—

- (a) in **sections EX 4** (Limits to requirement to include associated person interests), **GC 14B** (Attribution rule for personal services), and **OD 8(3)** (Further definitions of associated persons), means a person connected with another person by—
 - (i) blood relationship, that is, one is within the second degree of relationship to the other; or
 - (ii) marriage, that is, one is married to the other or to a person who is connected by blood relationship to the other; or
 - (iii) adoption, that is, one has been adopted as a child of the other or as a child of a person who is within the first degree of relationship to the other:
- (b) is defined in **section HH 3F** (Definitions of guardian, minor, and relative) for the purposes of **sections HH 3C** (Source of beneficiary income) and **HH 3D** (Treatment of various settlements):
- (c) except in the provisions referred to in **paragraphs (a) and (b)**, means a person connected with another person by—
 - (i) blood relationship, that is, one is within the fourth degree of relationship to the other; or
 - (ii) marriage, that is, one is married to the other or to a person who is connected by blood relationship to the other; or
 - (iii) adoption, that is, one has been adopted as a child of the other or as a child of a person who is within the third degree of relationship to the other:
- (d) except in the provisions referred to in **paragraphs (a) and (b)**, includes a trustee of a trust under which a relative has benefited or is eligible to benefit

relevant associate is defined in **section LF 5(5)** (Dividends from grey list companies) for the purposes of that section

relevant time is defined in **section HG 11(2)** (Taxation on election to become qualifying company) for the purposes of **sections HG 11 and HG 12** (Payment of qualifying company election tax)

relinquishment,—

- (a) for a petroleum permit, means the abandonment, expiry, forfeiture, revocation, or surrender of the permit otherwise than for a replacement permit; and

- (b) for a mining licence, includes the expiry of the initial term without an extension of the initial term or an extension of a specified term

remaining deduction—

- (a) is defined in **section EJ 4(6)** (Expenditure incurred in acquiring film rights in feature films) for the purposes of that section:
- (b) is defined in **section EJ 5(4)** (Expenditure incurred in acquiring film rights in films other than feature films) for the purposes of that section:
- (c) is defined in **section EJ 8(5)** (Film production expenditure for films other than New Zealand films) for the purposes of that section

remittance certificate means a certificate in a form authorised by the Commissioner and showing, for the PAYE period to which the certificate relates,—

- (a) the period to which the certificate relates; and
- (b) the name of the employer; and
- (c) the tax file number of the employer; and
- (d) the total amount of tax deductions; and
- (e) the total child support deductions; and
- (f) the total student loan deductions; and
- (g) the amount of specified superannuation contribution paid and the amount of specified superannuation contribution withholding tax deducted; and
- (h) any similar information the Commissioner may require

removal or restoration operations, for a petroleum miner, means removing permit-specific assets or restoring the site of petroleum mining operations because of the relinquishment of the petroleum permit relating to the permit-specific assets or the petroleum mining operations

remuneration is defined in **section ND 7(4)** (Definition of cash remuneration) for the purposes of that section

remunerative work is defined in **section KC 3(3)** (Transitional tax allowance) for the purposes of that section

rent is defined in **section GD 10(4)** (Leases for inadequate rent) for the purposes of that section

repairs, in **sections CC 2** (Non-compliance with covenant for repair) and **DB 15** (Amount paid for non-compliance with covenant for repair), includes painting and general maintenance

replacement permit—

- (a) means a petroleum permit obtained in whole or part exchange for another petroleum permit over the same or part of the same area; and
- (b) includes a sequential series of replacement permits to the extent to which each permit in the series replaces the previous permit in the series

replacement price in subpart EC (Valuation of livestock) means the price at which livestock can be replaced

reporting standard is defined in **section DB 27** (Some definitions) for the purposes of **sections DB 26** (Research or development) and **DB 27**

research is defined in **section DB 27** (Some definitions) for the purposes of **sections DB 26** (Research or development) and **DB 27**

resident, in **subpart KD** (Tax credits for family support and family plus), and in the definition of **qualifying person (paragraph (a))**,—

- (a) means ordinarily resident; and
- (b) does not include being unlawfully resident in New Zealand; and
- (c) does not include being lawfully resident in New Zealand but only because of having—
 - (i) a visitor's permit; or
 - (ii) a temporary work permit; or
 - (iii) a permit to be in New Zealand for the purposes of study at a New Zealand school or university or other tertiary educational establishment

resident in New Zealand has the same meaning as **New Zealand resident**

resident mining operator has the meaning given to it by **section CU 27** (Resident mining operator)

resident withholding income—

- (a) has the meaning given to it by **section NF 1** (Application of RWT rules); and
- (b) unless the context otherwise requires, includes an amount of resident withholding tax required to be deducted from an amount of resident withholding income under the RWT rules

resident withholding tax has the meaning given to it by **section NF 2** (Deduction of resident withholding tax)

resident withholding tax deduction certificate means a certificate provided under section 25 of the Tax Administration Act 1994

resident withholding tax deduction reconciliation statement means a statement required under section 51 of the Tax Administration Act 1994

residential purposes is defined in **section CB 16(3)** (Residential exclusion from **section CB 12**) for the purposes of that section

residual expenditure means—

- (a) expenditure for which a person is allowed a deduction under **section DB 25** (Scientific research):
- (b) expenditure incurred for—
 - (i) an application fee payable to the Crown for a petroleum permit; or
 - (ii) insurance premiums, royalties paid under the Petroleum Act 1937 or the Crown Minerals Act 1991, land tax under the Land Tax Act 1976, or rates; or
 - (iii) a lease of land or buildings; or
 - (iv) a financial arrangement to which the old financial arrangements rules apply:
- (c) interest

residual income tax, for a person and for a tax year, means the positive amount (if any) that remains after getting the sum for the tax year of the person's income tax liability and the person's refundable rebates to which **subpart KD** (Tax credits for family support and family plus) applies and deducting from it—

- (a) the amount of any credit of tax allowable for tax paid by a trustee on behalf of a beneficiary or by an agent on behalf of a principal:
- (b) the amount of any imputation credit or dividend withholding payment credit set off against the income tax under **section LB 2** (Credit of tax for imputation credit) or **LD 8** (Credit of tax for dividend withholding payment credit in hands of shareholder):
- (c) the amount of any credit set off against the income tax under **section LC 1** (Credits in respect of tax paid in country or territory outside New Zealand):
- (d) the amount of any credit allowed against the income tax under **section LC 4(4)(a) or (b)** (Foreign tax credits: CFCs):

- (e) the amount of any credit allowed against the income tax under **section LC 5(1)** (Group of companies CFC tax credits):
- (f) the amount of any tax deductions credited against the income tax under **section LD 1** (Tax deductions to be credited against tax assessed):
- (g) the amount of non-resident withholding tax credited against any income tax assessed under **section LD 2** (Non-resident withholding tax: credit allowed):
- (h) the amount of any resident withholding tax deductions credited against the income tax under **section LD 3** (Resident withholding tax deductions to be credited against income tax assessed):
- (i) the amount of any credit against the income tax arising under **subpart LE** (Non-resident investors), other than because of **section LE 2(4)(b)** (Credits in respect of dividends to non-resident investors):
- (j) the amount of any credit set off against the income tax under **section ME 19** (Use of credit balance to credit against company's policyholder base income tax liability, or transfer of credit balance to company's imputation credit account) or **ME 24** (Use of credit balance to reduce income tax):
- (k) the amount of any credit set off against the income tax under **section MF 14(3)** (Debit election to offset income tax payable in respect of foreign dividend)

retained earnings is defined in **section LF 5(5)** (Dividends from grey list companies) for the purposes of that section

return of income means a return of income required under section 33 of the Tax Administration Act 1994

return of the taxpayer's income has the same meaning as **return of income**

revenue account property, for a person, means—

- (a) property that is trading stock of the person; or
- (b) property that would produce income for the person if they disposed of it (not including income under **section EE 40** (Effect of disposal or event))

revenue film expenditure is defined in **section DS 7** (Some definitions) for the purposes of **subpart DS** (Film industry expenditure)

right, for property to which **sections EW 38** (Consideration for agreement for sale and purchase of property or services, hire purchase agreement, specified option, or finance lease) and **EW 40** (Consideration in foreign currency) apply, and in the definitions of **short-term agreement for the sale and purchase of property or services** and **short-term option**,—

- (a) means—
 - (i) a right to possess the property; or
 - (ii) a right to income derived from the property; or
 - (iii) a right to control or influence the disposal of income derived from the property; or
 - (iv) a right, directly or indirectly, to make a decision about the property; or
 - (v) a right, directly or indirectly, to influence a person making a decision about the property; or
 - (vi) any other right of a substantially similar nature; and
- (b) does not include the mere right to enforce an agreement for the sale and purchase of property or services or a specified option

right in the specified property is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

right to take timber includes an easement or licence or right of taking profits or produce from the land to the extent to which the easement, licence, or right relates to timber

rolling average value is defined in **section EZ 27(5)** (Valuation of livestock bailed or leased as at 2 September 1992) for the purposes of that section

routine government action is defined in **section DB 36(5)** (Bribes paid to public officials) for the purposes of that section

royalty has the meaning given to it by **section CC 10(2) and (3)** (Royalties)

RWT rules means—

- (a) the following provisions:
 - (i) **section GC 19** (Resident withholding tax):
 - (ii) **section GC 20** (Agreements not to make resident withholding tax deductions to be void):
 - (iii) **section LD 3** (Resident withholding tax deductions to be credited against income tax assessed):
 - (iv) **subpart NF** (Resident withholding tax); and

- (b) sections 25 to 28, 50 to 55, 99, 139B, 143A(1)(d) and (e), 143B(1)(d), 170 to 172, and 185 and Part 9 of the Tax Administration Act 1994

salary or wages—

- (a) means salary, wages, or allowances relating to the employment of a person, including all sums received or receivable by way of bonus, commission, extra salary, gratuity, overtime pay, or other remuneration of any kind; and
- (b) includes—
- (i) the market value of the benefits that a person receives in a tax year, because of their office or position, by way of the provision of board or lodging or the use of a house or quarters, or the payment of an allowance instead of being provided with board or lodgings or the use of a house or quarters, with the market value determined by the Commissioner if there is a dispute; and
 - (ii) payments that are expenditure on account of an employee; and
 - (iii) payments under **section DC 4** (Payments to working partners); and
 - (iv) specified superannuation contributions for which an employee makes an election under **section NE 2A** (Employee election that specified superannuation contributions be treated as salary or wages); and
 - (v) periodic payments by way of pension, retiring allowance, superannuation, or other allowance or annuity relating to the past employment of a person or of another person of whom the person is or has been the wife or husband or child or dependant; and
 - (vi) payments that are income under **section CF 1** (Benefits, pensions, compensation, and government grants); and
 - (vii) payments of income-tested benefits, veterans' pensions, New Zealand superannuation, and living alone payments; and
 - (viii) basic grants and independent circumstances grants, made under regulations made under section 193 of the Education Act 1964, section

-
- 303 of the Education Act 1989, or an enactment substituted for those sections; and
- (ix) under the Accident Compensation Act 1982, payments of earnings related compensation, as defined in section 2, and of compensation under section 80(4), that are not payments on account made under section 88 in circumstances in which, at the time the payments on account are made, the nature of the compensation on account of which they are made has not been determined; and
 - (x) under the Accident Rehabilitation and Compensation Insurance Act 1992, payments of compensation for loss of earnings payable under any of sections 38, 39, and 43, a vocational rehabilitation allowance payable under section 25, compensation for loss of potential earning capacity payable under section 45 or 46, weekly compensation payable under any of sections 58, 59, and 60, and continued compensation payable under section 138; and
 - (xi) under the Accident Insurance Act 1998, payments made under it by an insurer, as defined in the Act, of weekly compensation, as defined in the Act; and
 - (xii) under the Accident Insurance Act 1998, any other payments of compensation for loss of earnings or loss of potential earning capacity in so far as they relate to a work-related personal injury, as defined in the Act, made by an insurer under a policy of personal accident or sickness insurance to which section 188(1)(a) (as it read immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000) applies; and
 - (xiii) under the Injury Prevention, Rehabilitation, and Compensation Act 2001, payments made under it by the Corporation, as defined in the Act, of weekly compensation, as defined in the Act; and
- (c) does not include—
- (i) payments of exempt income, or extra pays, or withholding payments; or

- (ii) salary, wages, or other income to which **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies) applies; or
- (iii) employer's superannuation contributions; or
- (iv) payments that are declared by regulations under this Act not to be salary or wages

schedular income means income of any of the following types:

- (a) policyholder income under **section CR 1(4)** (Income of life insurer):
- (b) income derived from a mining venture by a non-resident mining operator:
- (c) specified payments derived by a person in their capacity as a non-resident entertainer if they do not choose to file a return for that income:
- (d) category A income derived by a trustee of a group investment fund:
- (e) income to which **section FC 14** (Non-resident general insurers' income) applies:
- (f) income to which **sections FC 18 to FC 20** (which relate to non-resident shippers) apply:
- (g) income to which **section FC 21** (Amounts derived by non-residents from renting films) applies:
- (h) schedular income subject to final withholding

schedular income subject to final withholding means non-resident withholding income to which **section NG 3** (Non-resident withholding tax to be final tax in certain cases) applies

schedular income tax liability means the amount determined under **section BC 7** (Income tax liability of person with schedular income)

schedular taxable income, for a tax year and a person who has schedular income of a particular type for the tax year, means the amount of taxable income that arises in calculating the schedular income tax liability for the type for the tax year

seal and abandonment means the seal and abandonment of an exploratory well when a petroleum miner files a statutory declaration with the Commissioner stating that the miner has no intention of utilising the well in petroleum mining operations or of applying for a mining licence in relation to the area in which the well is located

second instalment date means—

- (a) the 7th day of the month specified in **schedule 13, part A** (Months for payment of provisional tax and terminal tax) for payment of the second instalment of provisional tax for a tax year, unless January is specified; and
- (b) 15 January, if January is specified

second PAYE period means the period starting on the 16th day of a month and ending with the last day of the month

secondary employment earnings, for an employee and a pay period, means a source deduction payment that—

- (a) is derived in the pay period from an employer; and
- (b) is not—
 - (i) a payment of primary employment earnings; or
 - (ii) a withholding payment; or
 - (iii) an extra pay

section 200 is defined in **section CZ 12(4)** (Primary producer co-operative companies: 1987–88 income year) for the purposes of that section

section LE 3 holding company has the meaning given to it by **section LE 3(2)** (Special rules for holding companies)

secured arrangement—

- (a) in the financial arrangements rules, and in the definitions of **security arrangement** and **security payment**, means an arrangement whose non-performance is secured against by a financial arrangement:
- (b) is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

security arrangement,—

- (a) except in the old financial arrangements rules, means a financial arrangement that secures a party against another person failing to perform the person's obligations under a secured arrangement:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

security payment,—

- (a) in the financial arrangements rules, means money received by a party to a security arrangement to the extent to which—

- (i) the money is received for a loss incurred because of non-performance of the secured arrangement; and
- (ii) the money is income of the party;
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

self-assessed adverse event—

- (a) is defined in **section EH 34** (Some definitions used in main income equalisation scheme) for the purposes of the main income equalisation scheme;
- (b) is defined in **section EH 62** (Some definitions used in adverse event income equalisation scheme) for the purposes of the adverse event income equalisation scheme

separated person—

- (a) is defined in **section KC 4(2)** (Rebate in certain cases for housekeeper) for the purposes of that section;
- (b) in **subpart KD** (Tax credits for family support and family plus), and in the definition of **spouse**, means a person who is separated and living separate and apart from the person of whom he or she would otherwise be the spouse, whether under an agreement for separation, or under a court order, or because of the desertion of 1 of the parties by the other of them, or otherwise

services—

- (a) in **sections CX 1** (GST) and **DB 2** (GST), has the meaning given to it by section 2 of the Goods and Services Tax Act 1985;
- (b) in **sections CD 4** (What is a transfer of value?) and **EA 3** (Prepayments), means anything that is not goods, money, or a chose in action;
- (c) is defined in **section HH 3D(4)** (Treatment of various settlements) for the purposes of **section HH 3D(3)**

serving employee—

- (a) means a person to whom both the following apply:
 - (i) the person has been called up for service in any of the air, military, or naval forces of the Crown, whether before or after the commencement of this Act, whether on voluntary enlistment or otherwise, and whether within New Zealand or elsewhere; and

- (ii) the person, when called up, was employed by the person's employer in such circumstances that the employer is allowed a deduction for some or all of the wages, salary, allowance, or other remuneration that the employer pays the person; and
- (b) includes a person who occupies or has occupied in a company the position of director, whatever title is used, who, for the purposes of this definition, is treated as being or having been employed by the company

settlement, in **sections FG 2** (Entities to which apportionment rule potentially applies) **and HH 1** (Interpretation), in the trust rules, and in the definitions of **corpus, disposition of property, distribution, foreign trust, general power of appointment, and qualifying trust**,—

- (a) means—
 - (i) an act or failure to act on the part of a person that has the effect of making the person a settlor; or
 - (ii) a transaction or series of transactions that a person enters into and that has the effect of making the person a settlor; and
- (b) includes a settlement that a person is treated as making because the person is treated as being a settlor of the settlement

settlor,—

- (a) in **sections CW 43** (New Zealand companies operating in Niue), **HH 1** (Interpretation), **and OD 8(3)** (Further definitions of associated persons), in the consolidation rules and the trust rules, and in the definitions of **corpus, foreign trust, and settlement**, for a trust other than a unit trust,—
 - (i) means a person who makes, or has made at any time, a disposition of property to or for the benefit of the trust or on the terms of the trust for less than market value:
 - (ii) means a person who makes, continues to make, or has made at any time, any property available to or for the benefit of the trust for less than market value, including the provision of financial assistance whether by way of a loan, a guarantee, the

- provision of security, or otherwise; for the purposes of this subparagraph, if financial assistance is provided to or for the benefit of the trust at below market rates, or if amounts payable for the financial assistance are payable on demand and the right to demand payment is not exercised or is deferred, the financial assistance is treated as having have been provided to or for the benefit of the trust for less than market value:
- (iii) means a person who provides, continues to provide, or has provided at any time, a service to or for the benefit of the trust for less than market value:
 - (iv) means a person who acquires, or has at any time acquired, or obtains the use of, or continues to obtain the use of, or has at any time obtained the use of, any property of the trust or any service provided by the trustee of the trust for greater than market value:
 - (v) includes a person who is treated as a settlor by **section HH 1** (Interpretation):
 - (vi) includes a person who acts or abstains from acting or directly or indirectly enters into a transaction or a series of transactions with or in relation to the trust with the effect of defeating the intent and application of this paragraph:
- (b) for the purposes of **paragraph (a)**,—
- (i) it is immaterial whether the person acts directly or indirectly or by 1 transaction or by a series of transactions:
 - (ii) “series of transactions” means any number of transactions, whether related, connected, or otherwise:
 - (iii) the fact that a person is or will become a beneficiary of the trust does not constitute the giving or receiving of value:
- (c) in **sections HH 3C** (Source of beneficiary income) and **HH 3D** (Treatment of various settlements), has the meaning given to it by **paragraph (a)**, with the following qualifications:
- (i) “property” in **paragraph (a)(ii)**, when it refers to the provision of financial assistance by way of a loan

for less than market value, means loans existing on or after 1 April 2002 for which the interest rate on the amount borrowed is at any time during a tax year less than the interest rate set out in the Income Tax (Fringe Benefit Tax, Interest on Loans) Regulations on 31 March of the previous tax year; and

- (ii) “property” in **paragraph (a)(ii)** does not include the reference to the provision of financial assistance by way of a guarantee that was not called on or the provision of security that was not called on; and
- (iii) “services” in **paragraph (a)(iii)** does not include services that are incidental to the operation of the trust, such as bookkeeping or accounting services or those provided in being a trustee

share—

- (a) includes any interest in the capital of a company;
- (b) includes a debenture to which **section FC 1** (Floating rate of interest on debentures) **or FC 2** (Interest on debentures issued in substitution for shares) applies;
- (c) includes a unit in a unit trust;
- (d) includes an investor’s interest in a group investment fund if—
 - (i) the fund is not a designated group investment fund; and
 - (ii) the interest does not result from an investment from a designated source; and
 - (iii) the investor’s interest does not result from an investment made in the fund on or before 22 June 1983 (including an amount treated as invested at that date under **paragraph (c) or (d)** of the definition of **protected amount** in **section HE 2(3)** (Group investment funds));
- (e) includes a convertible note to which **section FZ 2(2)** (Amounts owing under convertible notes deemed to be share capital and holders deemed to be shareholders) applies;
- (f) does not include a withdrawable share in a building society, except in the definitions of **investment society dividend** and **withdrawable share**:

- (g) is further defined in **section CE 6** (Meaning of share) for the purposes of **sections CE 2 to CE 4 and CE 7** (which relate to share purchase agreements):
- (h) is further defined in **section DC 14** (Some definitions) for the purposes of **sections DC 11 to DC 14** (which relate to share purchase schemes)

share purchase agreement is defined in **section CE 7** (Meaning of share purchase agreement) for the purposes of **sections CE 1(d) and CE 2 to CE 4** (which relate to share purchase agreements)

share purchase scheme means a scheme approved for the time being by the Commissioner for the purposes of **section DC 11** (Loans to employees under share purchase schemes)

shareholder—

- (a) includes—
 - (i) a holder of a share; and
 - (ii) a member of a company, whether the company's capital is divided into shares or not:
- (b) does not include a holder of a withdrawable share in a building society, except in the definitions of **investment society dividend** and **withdrawable share**:
- (c) is further defined in **section FC 2(5)** (Interest on debentures issued in substitution for shares) for the purposes of that section:
- (d) in **subparts HG** (Qualifying companies) and **MF** (Branch equivalent tax accounts) and **sections ME 15 to ME 24** (which relate to policyholder credit accounts), in the dividend withholding payment rules and the imputation rules, and in the definition of **shareholder dividend statement**, includes a sharemilker (as defined in section 2 of the Sharemilking Agreements Act 1937), in so far as the sharemilker derives payment for produce transactions directly from a co-operative dairy or milk company

shareholder decision-making rights means rights, carried by shares issued by a company or options over shares issued by a company, to vote or participate in any decision-making concerning—

- (a) the dividends or other distributions to be paid or made by the company, whether on a liquidation of the company or otherwise, excluding decision-making undertaken by directors acting only in their capacity as directors; or
- (b) the constitution of the company; or
- (c) any variation in the capital of the company; or
- (d) the appointment or election of directors of the company

shareholder dividend statement means a statement required by section 29 of the Tax Administration Act 1994 to be given by a company to a shareholder to whom is paid a dividend referred to in that section

shareholder election means an election made under any of **section HG 4(1), (2), and (3)** (Shareholder elections)

shareholder-employee,—

- (a) in **sections EA 4** (Deferred payment of employment income) **and EI 7** (Matching rule for employment income of shareholder-employee), means a person who receives or is entitled to receive salary, wages, or other income to which **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies) applies:
- (b) in the fringe benefit tax rules and in section 177A of the Tax Administration Act 1994, means a person who is, in relation to a close company,—
 - (i) a shareholder in and an employee of the company; and
 - (ii) a person to whom **section OB 2(2)** (Meaning of source deduction payment: shareholder-employees of close companies) applies

shares of the same class means—

- (a) any 2 or more shares of a company that carry the same right to exercise voting power and participate in any decision-making at any time concerning—
 - (i) the distributions to be made by the company; and
 - (ii) the constitution of the company; and
 - (iii) any variation in the capital of the company; and
 - (iv) the appointment or election of directors of the company:
- (b) any 2 or more shares of a company that carry the same right, in terms of priority, amount payable per share,

and otherwise, to receive or have dealt with in the shareholder's interest or on the shareholder's behalf—

- (i) profits that may be distributed at any time by the company; and
 - (ii) distributions of assets of the company on an acquisition, redemption, or other cancellation by the company of its shares or other reduction in or return of share capital of the company, whether on its liquidation or otherwise:
- (c) any 2 or more shares of a company (**nominated shares**) for which the amount paid per share for their issue is the same or that are held by the same person, if—
- (i) the company chooses to treat the nominated shares as a separate class by giving the Commissioner notice in such form as the Commissioner may approve; and
 - (ii) the company can at all times from the time of issue of the nominated shares identify and distinguish them from any other shares in the company

shearer means a person who—

- (a) undertakes the shearing of sheep, other than in the carrying on of a business by the person; and
- (b) is not a person permanently employed on the premises where the shearing shed is situated

shearing shed hand means a person who—

- (a) is employed in or about the shearing shed, other than in the carrying on of a business by the person; and
- (b) is not—
 - (i) a shearer:
 - (ii) a wool classer:
 - (iii) a person permanently employed on the premises where the shearing shed is situated

short term agreement for the sale and purchase of property is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

short-term agreement for the sale and purchase of property or services means an agreement for the sale and purchase of property or services of 1 of the following classes:

- (a) an agreement under which settlement must take place or the services must be performed on or before the 93rd

day after the date on which the agreement is entered into:

- (b) if the date on which the agreement is entered into cannot be established, an agreement under which settlement must take place or the services must be performed on or before the 93rd day after the earlier of—
 - (i) the date on which the buyer first makes a payment to the seller; and
 - (ii) the date on which the first right in the property is transferred or the services are performed:
- (c) if the agreement is continuous and the seller renders periodic invoices for the property or services, an agreement under which settlement must take place or the services must be performed on or before the 93rd day after the date on which each invoice is rendered

short-term bailment is defined in **section EC 24** (Some definitions) for the purposes of **subpart EC** (Valuation of livestock)

short-term option,—

- (a) in the financial arrangements rules, means a specified option of 1 of the following classes:
 - (i) an option under which settlement must take place or the services must be performed on or before the 93rd day after the date on which the option is entered into:
 - (ii) if the date on which the option is entered into cannot be established, an option under which settlement must take place or the services must be performed on or before the 93rd day after the earlier of the date on which the buyer first makes a payment to the seller and the date on which the first right in the property is transferred or the services are performed:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

short term trade credit is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

sick, accident, or death benefit fund means a fund approved by the Commissioner that is established for the benefit of employees, or the members of an incorporated society, or the surviving spouses and dependants of those employees or members

significant financial hardship is defined in **section CS 3(2)** (Exclusion of withdrawal on grounds of hardship) for the purposes of that section

slice rule means the rule set out in **section CD 15(3) and (4)** (Ordering rule and slice rule) for calculating the amount of available subscribed capital per share

social assistance suspensory loan is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

sound recording has the meaning given to it by the Copyright Act 1994

source deduction payment has the meaning given to it by **section OB 2(1)** (Meaning of source deduction payment: shareholder-employees of close companies)

source in New Zealand, for income, has the meaning given to it by **section OE 4** (Classes of income treated as having source in New Zealand)

special account means a special farm ownership account, a special fishing vessel ownership account, or a special home ownership account

special corporate entity means—

- (a) a Crown Research Institute:
- (b) a group investment fund:
- (c) a Life Insurance Fund:
- (d) an entity that has not issued shares and is engaged mainly in the business of providing life insurance or other insurance to the public:
- (e) a local authority:
- (f) a public authority:
- (g) a State enterprise:
- (h) a statutory producer board:
- (i) any other statutory body that does not issue shares, if—
 - (i) the statutory body is established by an Act of the Parliament of New Zealand or by a statute of the legislature (whether federal or state or provincial) of any territory outside New Zealand; and
 - (ii) the Commissioner, having regard to the terms of the statute by which the body is established, is satisfied that it would be appropriate to treat the

body as a special corporate entity for the purposes of those provisions of this Act whose application is dependent upon the measurement of voting and market value interests

special farm ownership account means a special farm ownership account operated by a person under Part 2 of the Farm Ownership Savings Act 1974

special fishing vessel ownership account means a special fishing vessel ownership account as defined in the Fishing Vessel Ownership Savings Act 1977

special home ownership account means a special home ownership account operated by a person under Part 2 of the Home Ownership Savings Act 1974

special partnership is defined in **section HC 1(12)** (Special partnerships) for the purposes of that section

special rate has the meaning given to it by **section EE 57** (Other definitions)

special tax code certificate means a special tax code certificate under **section NC 14** (Special tax code certificates)

specified activity means—

- (a) the business of animal husbandry, including bee-keeping, the breeding of horses (other than bloodstock), and poultry-keeping;
- (b) the deriving, otherwise than in the conduct of a specified activity of the kind referred to in **paragraph (a)**, of income from livestock including bees, horses (other than bloodstock), and poultry;
- (c) the business of growing trees or plants—
 - (i) for sale as growing trees or plants; or
 - (ii) for the production of flowers; or
 - (iii) for the production of fruit (other than grapes), seeds, vegetables, or other crops, not including crops for which the preparation of the land, and the planting and cultivation of the tree or plant, and the harvesting of the crop is accomplished within 12 months:
- (d) the business of viticulture;
- (e) the business of freshwater fish farming;
- (f) the business of mussel farming;
- (g) the business of rock oyster farming;

- (h) the business of scallop farming;
- (i) the business of sea-case salmon farming;
- (j) the acquiring or holding of land with a view to deriving, from some or all of the land, fines, premiums, rents, or other revenues from a lease, licence, or other agreement relating to the land

specified activity net income is defined in **section IE 2(8)** (Specified activity net losses) for the purposes of that section

specified activity net loss is defined in **section IE 2(8)** (Specified activity net losses) for the purposes of that section

specified base cost for 1983 income year property means, whether the property is real or personal, the greater of—

- (a) the cost price or acquisition value of the property; and
- (b) the market value of the property on the last day of the 1982–83 income year

specified dividends means dividends that are—

- (a) paid in relation to shares issued by a company that is at the time of payment—
 - (i) a company not resident in New Zealand; or
 - (ii) a company whose constitution prohibits all of its income or property from being distributed to any proprietor, member, or shareholder of the company; or
 - (iii) a company all the income of which is exempt income otherwise than under **section CW 9** (Dividend derived by company from overseas) or **CW 10** (Dividend within New Zealand wholly-owned group); or
 - (iv) a company that, in New Zealand, is engaged solely in the business of life insurance referred to in **section EY 8(2)(c)** (Meaning of life insurance) and is not a company that maintains a dividend withholding payment account because of an election made under **section MG 2** (Company may elect to maintain dividend withholding payment account); or
- (b) dividends in relation to the amount of which a deduction has been allowed under **section FZ 1(4)** (Deduction for dividends paid on certain preference shares); or

- (c) dividends within the meaning of **section HI 3(2)** (Tax in respect of Maori authorities with more than 20 beneficiaries)

specified foreign social security pension means a benefit, pension, or periodical allowance granted to a person elsewhere than in New Zealand to the extent to which its amount reduces, under 1 of the following provisions, the rate of New Zealand superannuation payable to the person:

- (a) section 70 of the Social Security Act 1964;
(b) article 15 of the Convention in the schedule of the Social Welfare (Reciprocity with the United Kingdom) Order 1990 (SR 1990/85)

specified fund means—

- (a) a superannuation category 1 scheme; or
(b) a superannuation category 2 scheme; or
(c) a superannuation category 3 scheme

specified income, for a person and for a specified period referred to in **section KD 1(4)** (Determination of net income), means the amount calculated using the formula in **section KD 1(4)**

specified insurance premium has the meaning given to it by **section CX 16(3)** (Contributions to insurance funds)

specified lease—

- (a) means a lease to which the following apply:
- (i) it is entered into in the period starting on 6 August 1982 and ending with the close of 19 May 1999; and
- (ii) it has a guaranteed residual value, or the term of the lease is more than 36 consecutive months, or the term of the lease is the economic life of the lease asset because the Commissioner considers that the lease asset has an economic life of less than 36 months; and
- (iii) 1 of **paragraphs (b) to (e)** applies:
- (b) for the purposes of **paragraph (a)(iii)**, the lessee becomes the owner of the lease asset at the end of the term of the lease:
- (c) for the purposes of **paragraph (a)(iii)**, the lessee has the option to purchase the lease asset at the end of the term of the lease at a price that the Commissioner considers

will be significantly lower than the market value of the lease asset at the end of the term of the lease:

- (d) for the purposes of **paragraph (a)(iii)**, the total of all lease payments and the guaranteed residual value is more than or equal to, or to a small extent less than, the cost price of the lease asset:
- (e) for the purposes of **paragraph (a)(iii)**, the lessor and the lessee agree that the lessee is liable for the payment of all, or nearly all, expenditure incurred for the costs of repair and maintenance and any other incidental costs arising during the term of the lease for the use of the lease asset:
- (f) includes a lease of a lease asset if the lessee acquires ownership of the lease asset by any means whatsoever, whether from the lessor or another person:
- (g) includes a lease of a lease asset entered into in the period starting on 28 October 1983 and ending with the close of 19 May 1999 if—
 - (i) a person, other than the lessee, acquires the lease asset; and
 - (ii) the lessee and the person who acquires the lease asset are associated

specified mineral has the meaning given to it by **section CU 28** (Other definitions)

specified office holder means—

- (a) a judicial officer whose salary and principal allowances are determined by the Higher Salaries Commission; or
- (b) a Member of Parliament

specified option,—

- (a) in the financial arrangements rules,—
 - (i) means an option to acquire or dispose of property or services; and
 - (ii) includes an agreement for the sale and purchase of property or services entered into as a result of the exercise of the option:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

specified payment means—

- (a) an income-tested benefit; or
- (b) a veteran's pension; or
- (c) New Zealand superannuation; or

- (d) a basic grant or an independent circumstances grant, made under regulations made under section 193 of the Education Act 1964, section 303 of the Education Act 1989, or an enactment substituted for those sections; or
- (e) compensation described in any of **paragraph (b)(ix) to (xiii)** of the definition of **salary or wages**, if the compensation relates to a day forming part of a continuous period of eligibility for such compensation and the day falls after the earlier of—
 - (i) the day having the same date as the first day of the continuous period of eligibility for compensation and occurring in the third calendar month after that first day; and
 - (ii) the last day of the third calendar month after the first day of the continuous period of eligibility for compensation

specified period—

- (a) in **subpart KD** (Tax credits for family support and family plus), and in the definitions of **net specified income** and **specified income**, means an unbroken period in a tax year, whether the period consists of some or all of the days in the tax year:
- (b) is defined in **section EH 34** (Some definitions used in main income equalisation scheme) for the purposes of the main income equalisation scheme:
- (c) is defined in **section EH 62** (Some definitions used in adverse event income equalisation scheme) for the purposes of the adverse event income equalisation scheme:
- (d) is defined in **section EH 80** (Some definitions used in thinning operations income equalisation scheme) for the purposes of the thinning operations income equalisation scheme

specified preference shares is defined in **section FZ 1(5)** (Deduction for dividends paid on certain preference shares) for the purposes of that section

specified superannuation contribution means a contribution that—

- (a) is an employer's superannuation contribution; and
- (b) is made in money; and
- (c) is made to a superannuation fund

specified superannuation contribution withholding tax means specified superannuation contribution withholding tax payable under the SSCWT rules

specified value is defined in **section HE 2(3)** (Group investment funds) for the purposes of that section

spouse, in **section KC 3** (Transitional tax allowance) **and subpart KD** (Tax credits for family support and family plus), and in the definitions of **full-time earner**, **fully employed person**, and **separated person (paragraph (b))**,—

- (a) includes a man or a woman who has entered into a relationship in the nature of marriage with another person to whom he or she is not legally married; and
- (b) does not include a separated person

spreading method means a method listed in **section EW 20(2)** (What spreading methods do)

SSCWT rules—

- (a) means the following provisions:
 - (i) **section CX 43** (Employer's superannuation contributions);
 - (ii) **subpart NE** (Specified superannuation contribution withholding tax); and
- (b) sections 47, 48, 139B, 143A(1)(d) and (e), and 143B(1)(d) and Part 9 of the Tax Administration Act 1994

stallion means a stallion that is bloodstock

standard accounting year has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

standard balance date has the meaning given to it by **section OF 1(2)** (References to balance dates and years generally)

standard dividend means a dividend derived from a company by a shareholder in the form of—

- (a) money; or
- (b) the release of an obligation to repay an amount lent; or
- (c) a distribution of property of the company; or
- (d) a taxable bonus issue

standard value, for non-listed livestock, means the value set under **section EC 30** (Setting standard values)

standing timber includes trees that would be standing timber if they were mature trees

start date is defined in **section MJ 1(1)** (Qualifying unit trust or group investment fund may elect to maintain supplementary available subscribed capital account) for the purposes of **subpart MJ** (Supplementary available subscribed capital accounts)

state enterprise means a person specified in **schedule 18** (State enterprises)

statutory producer board—

- (a) means—
 - (i) a body specified in **schedule 15** (Statutory producer boards):
 - (ii) a marketing authority within the meaning of the Primary Products Marketing Act 1953 that is established by regulations made under that Act:
 - (iii) a primary producer board or marketing board established by an Act; and
- (b) in **sections HF 1** (Profits of mutual associations in respect of transactions with members) and **OC 3** (Statutory producer boards), and in the definition of **special corporate entity**, does not include a body that derives only exempt income

straight-line method, for depreciation, has the meaning given to it by **section EE 57** (Other definitions)

straight-line rate has the meaning given to it by **section EE 57** (Other definitions)

subpart KD credit means the credit of tax allowed and calculated under **section KD 2** (Calculation of subpart KD credit)

subsequent dividend, for a company that has paid a benchmark dividend during an imputation year, means a dividend that—

- (a) is paid by the company after the benchmark dividend during the imputation year; and
- (b) is not a dividend that is—
 - (i) paid at a time when the company is not an imputation credit account company; or
 - (ii) a distribution by a co-operative company in relation to which the company has made a determination under **section ME 35** (Co-operative company may make annual determination to attach imputation credit to certain distributions)

subsidised transport—

- (a) means transport—
 - (i) for which the employer does not charge the employee; or
 - (ii) for which the employer charges the employee a sum that is less than the highest amount that the employer charges the public for transport that is equivalent in terms of class, extent, and occasion; and
- (b) includes transport that the employer provides by way of providing carriage or an entitlement to carriage

substantial business assets is defined in **section GC 14C(6)** (Definitions for use in **section GC 14B**) for the purposes of **section GC 14B**

sufficient interest has the meaning given to it by **section LF 1(2)** (Underlying foreign tax credits generally, and interpretation)

superannuation category 1 scheme means a scheme or fund that was at the relevant time a superannuation category 1 scheme under the Income Tax Act 1976

superannuation category 2 scheme means a scheme or fund that was at the relevant time a category 2 scheme under the Income Tax Act 1976

superannuation category 3 scheme means a scheme or fund that was at the relevant time a superannuation category 3 scheme under the Income Tax Act 1976

superannuation contribution—

- (a) means a disposition of property to or for the benefit of a superannuation scheme in consideration for which fully adequate consideration in money or money's worth does not pass from the scheme to a person; and
- (b) does not include a benefit that may pass from the scheme to a person under the terms of the scheme

superannuation fund—

- (a) means a superannuation scheme registered under the Superannuation Schemes Act 1989; and
- (b) when referring to a superannuation fund that is a trust, means the trustees of the fund

superannuation policy is defined in **section DZ 1(3)** (Life insurers acquiring property before 1 April 1988) for the purposes of that section

superannuation scheme—

- (a) means—
- (i) a trust or unit trust established by its trust deed mainly for the purposes of providing retirement benefits to beneficiaries who are natural persons or paying benefits to superannuation funds; or
 - (ii) a company that is not a unit trust, is not resident in New Zealand, and is established mainly for the purpose of providing retirement benefits to members or relatives of members who are natural persons; or
 - (iii) an arrangement constituted under an Act of the Parliament of New Zealand, other than the Social Security Act 1964, mainly for the purpose of providing retirement benefits to natural persons; or
 - (iv) an arrangement constituted under the legislation of a country, territory, state, or local authority outside New Zealand mainly for the purpose of providing retirement benefits to natural persons; and
- (b) when referring to a superannuation scheme that is a trust, means the trustees of the scheme

superannuitant means a New Zealand superannuitant

supplementary dividend, for a company and for a person deriving a dividend (**first dividend**) from the company, means a dividend that—

- (a) is paid by the company in the same income year as the first dividend; and
- (b) is paid in relation to the first dividend; and
- (c) is derived by the person; and
- (d) is equal in amount to the tax credit calculated, for the first dividend, under **section LE 2(2)** (Credits in respect of dividends to non-resident investors)

supply is defined in **section GD 13(13)** (Cross-border arrangements between associated persons) for the purposes of that section

surplus refundable credits, for a person and for a tax year, means any excess credits that are refundable credits and that have not been dealt with otherwise under **section BC 10(2)** (Surplus credits)

tax means income tax

tax advantage, in **sections GC 22** (Imputation: arrangement to obtain tax advantage) and **ME 8** (Allocation rules for imputation credits), means—

- (a) the allowance, wholly or partly, of a credit of tax under **section LB 2** (Credit of tax for imputation credit):
- (b) the allowance, wholly or partly, of a credit of tax under **section LD 8** (Credit of tax for dividend withholding payment credit in hands of shareholder):
- (c) the obtaining of a refund of dividend withholding payment under **section LD 9** (Refund to non-resident or exempt shareholders):
- (d) the arising of a credit to an imputation credit account under **section ME 4** (Credits arising to imputation credit account):
- (e) the arising of a credit to a dividend withholding payment account under **section MG 4** (Credits arising to dividend withholding payment account)

tax agent means a person—

- (a) who prepares the annual returns required to be filed for 10 or more persons; and
- (b) who—
 - (i) carries on a professional public practice; or
 - (ii) carries on any business in which annual returns required to be filed are prepared; or
 - (iii) is the Maori Trustee

tax avoidance includes—

- (a) directly or indirectly altering the incidence of any income tax:
- (b) directly or indirectly relieving a person from liability to pay income tax:
- (c) directly or indirectly avoiding, postponing, or reducing any liability to income tax

tax avoidance arrangement means an arrangement, whether entered into by the person affected by the arrangement or by another person, that directly or indirectly—

- (a) has tax avoidance as its purpose or effect; or
- (b) has tax avoidance as 1 of its purposes or effects, whether or not any other purpose or effect is referable to ordinary business or family dealings, if the purpose or effect is not merely incidental

tax code, for an employee, means the employee's tax code under **section NC 8** (Application of tax codes specified in tax code declarations or tax code certificates)

tax code certificate—

- (a) means a tax code certificate under **section NC 8** (Application of tax codes specified in tax code declarations or tax code certificates); and
- (b) includes a special tax code certificate

tax code declaration means a tax code declaration under **section NC 8** (Application of tax codes specified in tax code declarations or tax code certificates)

tax credit advantage is defined in **section GC 22(9)** (Imputation: arrangement to obtain tax advantage) for the purposes of that section

tax deduction means a tax deduction made or required to be made under the PAYE rules

tax file number means an identification number that the Commissioner has allocated to a person either—

- (a) generally for the purposes of this Act; or
- (b) specifically for the purposes of the issue to the person of a certificate of exemption under **section NF 9** (Certificates of exemption)

tax withheld means an amount of tax paid under the PAYE rules, the RWT rules, the NRWT rules, or regulations made under section 225 of the Tax Administration Act 1994

tax year means a period starting on 1 April and ending on 31 March

tax year of transfer, for a matrimonial agreement, means the tax year in which the date of transfer falls

taxable activity—

- (a) in the provisional tax rules, the RWT rules, and the NRWT rules, has the meaning given to it by section 6 of the Goods and Services Tax Act 1985, except that section 6(3)(d) does not apply:
- (b) is defined in **section DB 3(3)** (Determining tax liabilities) for the purposes of that section

taxable bonus issue means—

- (a) a bonus issue in lieu; or

- (b) a bonus issue that a company chooses to treat as a dividend under **section CD 7** (Elections to make bonus issue into dividend); or
- (c) in the case of a bonus issue made before the enactment of this Act, a bonus issue that the company chose to treat as a dividend under a provision of an earlier Act corresponding to **section CD 7** (Elections to make bonus issue into dividend)

taxable distribution, for a tax year, and for a trust that in the tax year is a non-qualifying trust or a foreign trust but is not a superannuation fund or a unit trust, and for a person who is a beneficiary of the trust, means a distribution to the beneficiary in the tax year that is—

- (a) not beneficiary income;
- (b) not a distribution of, or a payment or transaction that represents a distribution of, any part of the corpus of the trust;
- (c) for a foreign trust, not a distribution of, or a payment or transaction that represents a distribution of, profits derived in any tax year by the trustee of the trust from the realisation of a capital asset of the trust or any other capital profit or capital gain realised by the trustee in any tax year (excluding profit or gain required to be taken into account for the purpose of determining an income tax liability, minus any capital loss incurred by the trustee of the trust from the realisation of a capital asset of the trust or otherwise in the tax year during which the profit or gain was realised);
- (d) for the purposes of **paragraph (c)**, any capital profit or capital gain realised by the trustee of a foreign trust is treated as income derived by the trustee (but not beneficiary income) and not as capital profits or gains, whether the realisation was by 1 transaction or by a series of transactions between the trustee and a person associated with the trustee, and for this purpose a person is treated as associated with the trustee if the person would be treated as associated under **section OD 7** (Defining when 2 persons are associated persons) or **OD 8(3)** (Further definitions of associated persons)

taxable income means taxable income for a tax year calculated under **section BC 5** (Taxable income)

taxable period is defined in **section DB 3(3)** (Determining tax liabilities) for the purposes of that section

taxable supply has the meaning given to it by section 2 of the Goods and Services Tax Act 1985

taxation law, in **sections EZ 49** (References to new rules include old rules), **YA 4** (Saving of binding rulings), and **YA 5** (Saving of accrual determinations),—

- (a) has the meaning given to it by section 3(1) of the Tax Administration Act 1994; and
- (b) includes a provision of the Income Tax Act 1994

Taxation Review Authority means a Taxation Review Authority established under the Taxation Review Authorities Act 1994

taxicab has the meaning given to it by section 2(1) of the Transport Act 1962

taxpayer means a person who is, or may be, liable to perform or comply with an obligation imposed by this Act

temporary building means—

- (a) a building that—
 - (i) is erected under a permit issued by a local authority or a public authority; and
 - (ii) must be demolished or removed if the local authority or the public authority requires its demolition or removal; or
- (b) a building that—
 - (i) is erected at a construction site; and
 - (ii) is to be demolished or removed on or before the completion of the construction; or
- (c) a building that—
 - (i) was erected, and is used, to house specific plant or machinery; and
 - (ii) will have to be demolished to remove or replace the plant or machinery

ten percent capital reduction is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

term of the lease—

- (a) means the period of time from the date on which a lease starts until it ends:

- (b) if the term is indefinite, means the period of time during which the lessee is unable, under the lease, to cancel, terminate, or withdraw from the lease without incurring a penalty:
- (c) if 2 or more consecutive leases are treated under **paragraph (c)(iv)** of the definition of **lease** as 1 lease of a lease asset, the term of the lease runs from the start of the first term of the lease to the end of the last of the leases:
- (d) is defined in **section EZ 29(5)** (Premium paid on land leased before 1 April 1993) for the purposes of that section

terminal tax means an amount calculated for a tax year under **section BC 9** (Satisfaction of income tax liability)

terminal tax date, for a tax year and a person, means—

- (a) the 7th day of the month specified in **schedule 13, part A** (Months for payment of provisional tax and terminal tax) for payment of terminal tax for the tax year, unless January is specified; or
- (b) 15 January, if January is specified in **schedule 13, part A** (Months for payment of provisional tax and terminal tax) for payment of terminal tax for the tax year; or
- (c) any other date that the Commissioner specifies under **section MC 1(3)** (Payment of terminal tax by provisional taxpayer) for a particular provisional taxpayer; or
- (d) a date that is specified in **section MC 2(1)** (Payment of tax)

terminating share means a share in a building society that is included in a group of shares, if the group is to terminate—

- (a) at the end of a period specified on the issue of the shares; or
- (b) on the attainment of a result specified on the issue of the shares

thinning operations has the meaning given to it by **section EH 80** (Some definitions used in thinning operations income equalisation scheme)

thinning operations deposit has the meaning given to it by **section EH 80** (Some definitions used in thinning operations income equalisation scheme)

thinning operations income equalisation account has the meaning given to it by **section EH 80** (Some definitions used in thinning operations income equalisation scheme)

thinning operations income equalisation scheme means the scheme referred to in **section EH 1(2)(c)** (Income equalisation schemes)

thinning operations maximum deposit has the meaning given to it by **section EH 80** (Some definitions used in thinning operations income equalisation scheme)

third instalment date means—

- (a) the 7th day of the month specified in **schedule 13, part A** (Months for payment of provisional tax and terminal tax) for payment of the third instalment of provisional tax for a tax year, unless January is specified; and
- (b) 15 January, if January is specified

timber includes standing timber in—

- (a) **section FB 4** (Income derived from disposal of trading stock together with other assets of business):
- (b) **section FF 7** (Disposal of timber under matrimonial agreement):
- (c) **section GD 1** (Sale of trading stock for inadequate consideration):
- (d) **section GD 2** (Distribution of trading stock to shareholders of company):
- (e) the definition of **cost of timber**:
- (f) the definition of **disposal (paragraph (a))**:
- (g) the definition of **right to take timber**:
- (h) the definition of **trading stock (paragraph (b)(iv))**

time bar means the provisions of sections 108 and 108B of the Tax Administration Act 1994

time of the sale, in **sections DC 9** (Sale of business: transferred employment income obligations) and **EA 4** (Deferred payment of employment income), means the date on which the agreement for sale of the business is settled by the exchange of the seller's business for the buyer's consideration

tracking account means the account described in item "a" of the formula in **section LF 5(2)** (Dividends from grey list companies)

trade credit is defined in **section EZ 45** (Definitions) for the purposes of the old financial arrangements rules

trading stock—

- (a) is defined in **section EB 2** (Meaning of trading stock) for the purposes of—

- (i) **section CD 38** (Cost of tangible property):
- (ii) **section CH 1** (Trading stock, livestock, and excepted financial arrangements):
- (iii) **section CZ 15** (Available capital distribution amount: 1965 and 1985 to 1992):
- (iv) **section DB 40** (Trading stock, livestock, and excepted financial arrangements):
- (v) **section DP 1** (Cost of timber):
- (vi) **section DU 13** (Cost of non-specified mineral):
- (vii) **section EA 1** (Trading stock, livestock, and excepted financial arrangements):
- (viii) **section EA 2** (Other revenue account property):
- (ix) **section EA 3** (Prepayments):
- (x) **subpart EB** (Valuation of trading stock (including dealer's livestock)):
- (xi) **section EE 7** (What is not depreciable property):
- (xii) **section EE 31** (Items of low value):
- (xiii) **section EE 54** (Excluded depreciable property):
- (xiv) **section EW 2** (Application of financial arrangements rules):
- (xv) **section EX 21** (Branch equivalent income or loss: calculation rules):
- (xvi) **section EX 47** (Codes: comparative value and deemed rate methods):
- (xvii) **section EZ 19** (New item):
- (xviii) **section EZ 20** (New Zealand-new item):
- (xix) **section FB 3** (Disposal of trading stock):
- (xx) **section FC 4** (Valuation adjustments where company acquires its shares):
- (xxi) **section FC 10** (Taxation of hire purchase agreements):
- (xxii) **section FD 10** (Special provisions relating to dispositions of property):
- (xxiii) **section FE 6** (Acquisition of property by amalgamated company on qualifying amalgamation):
- (xxiv) **section FG 4** (Rules for calculating New Zealand group debt percentage):
- (xxv) **section GD 7** (Distribution of property to policyholders):
- (xxvi) **section HB 2** (Taxable income to be calculated generally as if group were single company):

- (xxvii) **section HC 1** (Special partnerships):
 - (xxviii) **section HF 1** (Profits of mutual associations in respect of transactions with members):
 - (xxix) **section HH 5** (Existing trusts becoming subject to tax):
 - (xxx) the definitions of **accrual expenditure, closing stock, cost, cost price, market value, produce transactions, and revenue account property:**
- (b) in **sections CG 6** (Receipts from insurance or other compensation for trading stock), **FF 13** (Trading stock), **GD 1** (Sale of trading stock for inadequate consideration), and **GD 2** (Distribution of trading stock to shareholders of company),—
- (i) includes anything produced or manufactured:
 - (ii) includes anything acquired for the purposes of manufacture, sale, or exchange:
 - (iii) includes livestock:
 - (iv) includes timber:
 - (v) includes a right to take timber:
 - (vi) includes any other real or personal property if the business of the person who disposed of it is dealing in such property or if the person acquired the property for the purpose of disposal:
 - (vii) includes land whose disposal would produce income under any of **sections CB 5 to CB 13** (which relate to income from land):
 - (viii) includes anything for which expenditure is incurred after 8.30 pm New Zealand Standard Time on 31 July 1986 and which, if possession of that thing were taken, would be trading stock:
 - (ix) does not include a financial arrangement:
- (c) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions):
- (d) is defined in **section FB 4(5)** (Income derived from disposal of trading stock together with other assets of business) for the purposes of that section

transfer of value means a transfer of value as defined in **section CD 4** (What is a transfer of value?)

transferee—

- (a) is defined in **section DZ 7(6)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:
- (b) in **subpart FF** (Matrimonial transfers), for property transferred under a matrimonial agreement, means the person to whom the property is transferred under the agreement

transferor—

- (a) is defined in **section CZ 6(2)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:
- (b) is defined in **section DZ 7(6)** (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:
- (c) in **subpart FF** (Matrimonial transfers), for property transferred under a matrimonial agreement, means the person from whom the property is transferred under the agreement

transitional capital amount, for a share in a company, means—

- (a) the amount calculated using the formula—

$$\frac{j + k}{1} \times m$$

where—

- j is the total amount of capital paid up before 1 July 1994 for shares of the same class as the share, whenever issued and including the share, that is not an amount paid up by a bonus issue made after 31 March 1982 and before 1 October 1988, except if—
 - (i) the date of the acquisition, redemption, other cancellation, or liquidation falls more than 10 years after the date of the bonus issue; or
 - (ii) the amount was paid up by way of application of an amount of qualifying share premium; or
 - (iii) the relevant time is the time of liquidation of the company; or

is the total amount of capital paid up before 1 July 1994 for shares of the same class as the share; whenever issued and including the share, that is not an amount paid up by a bonus issue, other than a taxable bonus issue, made on or after 1 October 1988, except if the amount was paid up by way of application of an amount of qualifying share premium

- k is the total of qualifying share premium paid to the company before 1 July 1994 for shares of the class, whenever issued and including the share, that is not an amount that is later, but before 1 July 1994, applied to pay up capital on shares in the company
 - l is the number of shares of the class, including the share, ever issued before the close of 30 June 1994
 - m is the number of shares of the class, including the share, on issue at the close of 30 June 1994:
- (b) for a company that is a group investment fund to which **section CZ 8** (Treatment of superannuation fund interests in group investment funds on 1 April 1999) applies, the value of the superannuation fund interest at the close of business on 31 March 1999

transitional year means the period for which a person files a return under section 39 of the Tax Administration Act 1994

trust, in the definitions of **superannuation scheme** and **unit trust**, has the meaning given to it by the Trustee Act 1956

trust rules means—

- (a) the following provisions:
 - (i) **section CX 35** (Superannuation fund deriving amount from life insurance policy):
 - (ii) **section DB 24** (Bad debts owed to estates):
 - (iii) **sections DV 1 to DV 8** (which relate to superannuation funds):
 - (iv) **section EW 66** (Financial arrangements, income, and expenditure relevant to criteria):
 - (v) **section EZ 34** (Cash basis holder):
 - (vi) **section GC 14** (Income assessable to beneficiaries):
 - (vii) **section GD 6** (Value of loans provided by superannuation fund deemed to be income of fund):

- (viii) **sections HH 3 to HH 8** (which relate to trusts):
 - (ix) **section HJ 1** (Government Superannuation Fund):
 - (x) **section HK 14** (Rents, royalties, or interest derived by Maori Trustee and not distributed):
 - (xi) **section HZ 2** (Trusts that may become qualifying trusts); and
- (b) section 59 of the Tax Administration Act 1994

trustee—

- (a) in reference to a trust,—
 - (i) means the trustee only in the capacity of trustee of the trust; and
 - (ii) includes all trustees, for the time being, of the trust:
- (b) includes an executor and administrator:
- (c) includes Public Trust:
- (d) includes the Maori Trustee:
- (e) for a superannuation scheme that is a trust or that is treated by this Act as a trust, includes a person by whom the investments of the scheme (or a part of the scheme) are managed or controlled:
- (f) for a unit trust, means the trustee in which is vested the money, investments, and other property that are for the time being subject to the trusts governing the unit trust:
- (g) is defined in **section DC 14** (Some definitions) for the purposes of **sections DC 11 to DC 14** (which relate to share purchase schemes)

trustee company has the meaning given to it by section 2 of the Trustee Companies Act 1967

trustee income, for a trust, other than a unit trust, and for an income year, means income that—

- (a) is derived by a trustee of the trust in the income year; and
- (b) is not, except for a superannuation fund, income that—
 - (i) vests absolutely in interest in a beneficiary of the trust during the income year; or
 - (ii) is paid or applied by the trustee to or for the benefit of a beneficiary of the trust during, or within 6 months after the end of, the income year

turnover, in **subpart EB** (Valuation of trading stock (including dealer's livestock)),—

- (a) means the total income that a business derives in an income year as a result of trading by that business; and
- (b) does not include the value of closing stock

type, in **subparts EC** (Valuation of livestock) and **FF** (Matrimonial transfers), and in the definitions of **class** and **herd livestock**, for listed livestock, means a general category of livestock listed in **schedule 8, column 1** (Types and classes of livestock)

unadjusted income tax liability means an unadjusted income tax liability for a tax year calculated under **section BC 6(2)** (Income tax liability of filing taxpayer)

unclassified benefit has the meaning given to it by **section CX 32** (Meaning of unclassified benefit)

unit holder, for a unit trust, means a person who holds a beneficial interest in the money, investments, and other property that are for the time being subject to the trusts governing the unit trust

unit trust—

- (a) means a scheme or arrangement, whether made before or after the commencement of this Act, that is made for the purpose or has the effect of providing facilities for subscribers, purchasers, or contributors to participate, as beneficiaries under a trust, in income and gains (whether in the nature of capital or income) arising from the money, investments, and other property that are for the time being subject to the trust; and
- (b) does not include—
 - (i) a trust for the benefit of debenture holders:
 - (ii) the Common Fund of Public Trust:
 - (iii) a Group Investment Fund established by Public Trust:
 - (iv) the Common Fund of the Maori Trustee:
 - (v) a Group Investment Fund established under the Trustee Companies Act 1967:
 - (vi) a friendly society registered under the Friendly Societies and Credit Unions Act 1982:
 - (vii) a superannuation fund:
 - (viii) an employee share purchase scheme:
 - (ix) any other trust of any specified kind that is declared by the Governor-General, by Order in

Council, not to be a unit trust for the purposes of **section HE 1** (Unit trusts)

unlisted trust is defined in **section CD 14(9)** (Returns of capital: off-market share cancellations) for the purposes of that section

unlisted widely-held trust means a widely-held trust the units or interests in which are not quoted on the official list of a recognised exchange

variable principal debt instrument,—

- (a) in the financial arrangements rules, means a financial arrangement that contemplates that 1 party may, on demand or call,—
 - (i) advance further amounts to the other party; or
 - (ii) require the return of all amounts advanced to the other party, if the other party's rights and obligations under the financial arrangement are expressed in a foreign currency:
- (b) in the old financial arrangements rules, has the meaning given to it by **section EZ 45** (Definitions)

variation in control or income interests is defined in **section GC 9(7)** (Variations in control or income interests in foreign companies) for the purposes of that section:

veteran's pension means a veteran's pension paid or payable under Part 1 of the Social Welfare (Transitional Provisions) Act 1990 or section 70(3)(b) of the Social Security Act 1964, other than a portable veteran's pension

voting interest—

- (a) means, for a person and a company and a time, the percentage voting interest that the person is treated as holding in the company at the time under **sections OD 2 to OD 6** (which relate to the measurement of control and ownership interests):
- (b) in **subpart HG** (Qualifying companies), and in the definition of **elective interest**, has the meaning given to it by **section HG 2** (Determination of effective interest in company):
- (c) in **section OD 5(6E)** (Modifications to measurement of voting and market value interests in case of continuity provisions), means, for a person and a company and a time, the percentage voting interest that the person is

treated as holding in the company under **section OD 3** (Voting interests), as modified by **section OD 5(6F)**

war widows mother's allowance means a mother's allowance payable under section 32(2) of the War Pensions Act 1954

wholly-owned group has the same meaning as **wholly-owned group of companies**

wholly-owned group of companies—

- (a) has the meaning given to it by **section IG 1(3)** (Companies included in group of companies):
- (b) in **sections EC 39** (Reduction: bloodstock not previously used for breeding in New Zealand) and **EZ 14** (**Section EZ 13** amount of depreciation loss when items transferred between companies in wholly-owned group before 1 April 1993), for 2 companies and for a time at which an asset is disposed of by 1 of them to the other, whenever that time is, has the meaning given for the time by **section IG 1(3)** (Companies included in group of companies)

widely-held company means, at any time, a company that, at the time,—

- (a) has not less than 25 shareholders (treating all associated shareholders as 1 person); and
- (b) is not a closely-held company

widely-held trust means a unit trust or group investment fund to which 1 of the following applies:

- (a) it has at least 100 unitholders or investors (treating all associated persons as 1 person); or
- (b) **paragraph (a)** does not apply to it but it can still reasonably be regarded as a widely-held investment vehicle for direct investment by the public; or
- (c) **paragraph (a)** does not apply to it but only because of unusual or temporary circumstances, such as the fact that it was recently established or is to be terminated; or
- (d) **paragraph (a)** does not apply to it but it can reasonably be regarded as a vehicle mainly for investment by unit trusts, group investment funds, or superannuation funds that are widely-held vehicles for direct investment

windfall credit is defined in **section MZ 1(3)** (Savings for certain credits arising in relation to overpayment of income tax or

dividend withholding payment) for the purposes of that section

withdrawable share—

- (a) means a share in a building society—
 - (i) that bears a rate of dividend specified on the issue of the share and that is redeemable at the end of a fixed term or at the option of the shareholder; or
 - (ii) that has been issued under section 31A of the Building Societies Act 1965; or
 - (iii) that is a terminating share; and
- (b) does not include a share in a building society that is irredeemable, or redeemable only at the society's option, on which a dividend is declared and payable from the annual surplus revenue of the building society

withdrawal,—

- (a) in **subpart CS** (Superannuation funds), includes the direct transfer of an amount by a superannuation fund to another superannuation fund or a superannuation scheme:
- (b) in **section CS 7** (Exclusion of withdrawal when member ends employment), means a withdrawal of amounts, and any return on amounts, contributed to a superannuation fund during the time a member is employed by the employer with whom the member is ending their employment:
- (c) in **section CS 9** (Exclusion of withdrawal from defined benefit fund when member ends employment), means a withdrawal of amounts, and any return on amounts, contributed to a defined benefit fund during the time a member is employed by the employer with whom the member is ending their employment

withdrawal certificate,—

- (a) for a special account that is a special farm ownership account, means a withdrawal certificate as defined in the Farm Ownership Savings Act 1974:
- (b) for a special account that is a special home ownership account, means a withdrawal certificate as defined in the Home Ownership Savings Act 1974:
- (c) for a special account that is a special fishing vessel ownership account, means a withdrawal certificate as

defined in the Fishing Vessel Ownership Savings Act 1977

withdrawal income means withdrawal income as determined under **section IZ 3** (Withdrawal income)

withdrawal tax means withdrawal tax imposed by **section IZ 2** (Rate of withdrawal tax)

withholding payment means a payment that is declared by regulations under this Act to be a withholding payment for the purposes of the PAYE rules

withholding tax limitation has the meaning given to it by **section DA 2(5)** (General limitations)

working day means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (b) a day in the period starting on 25 December in a year and ending on 15 January (both dates inclusive) in the following year

work-related vehicle has the meaning given to it by **section CX 33** (Meaning of work-related vehicle)

worldwide group debt percentage means, for a person and for an income year, the percentage calculated under **section FG 5** (Rules for calculating worldwide group debt percentage)

year means a 12 month period

year of determination, in **sections ME 30 to ME 34** (which relate to imputation credit accounts of statutory producer boards), and in the definition of **member (paragraph (a))**, means an income year that starts on or after 1 April 1988.

Compare: 1994 No 164 s OB 1

OB 2 Meaning of source deduction payment: shareholder-employees of close companies

- (1) In this Act, except as provided in **subsection (2)**, **source deduction payment** means a payment by way of salary or wages, an extra pay, a payment made to a specified office holder in respect of the activities of a specified office, or a withholding payment, but does not include an amount attributed in accordance with **section GC 14D**.

- (2) If a taxpayer is a shareholder in and an employee of a close company and in the taxpayer's tax year (or in the taxpayer's corresponding accounting year)—
- (a) the taxpayer does not derive as an employee of the company—
 - (i) salary or wages of a regular amount for regular pay periods of 1 month or less regularly throughout that tax year (or corresponding accounting year); or
 - (ii) salary or wages, by way of regular payments throughout that tax year (or corresponding accounting year) of a regular amount for regular pay periods, that are in total at least two-thirds of the annual gross income which the taxpayer derives in that tax year (or corresponding accounting year) as an employee of the company; or
 - (b) any amount is paid or credited to the taxpayer, or applied on the taxpayer's account, in anticipation or in respect of any income that may subsequently be allocated to the taxpayer as an employee of the company,—
for the purposes of this Act, except the FBT rules,—
 - (c) all counted income that the taxpayer derives as an employee of the company in every subsequent tax year (or corresponding accounting year) is deemed to be counted income derived otherwise than from source deduction payments; and
 - (d) if the taxpayer so chooses, all counted income that the taxpayer derives from the company in that tax year (or corresponding accounting year) as an employee of the company is deemed to be counted income derived otherwise than from source deduction payments.

Compare: 1994 No 164 s OB 2

OB 3 Meaning of qualifying company

- (1) In this Act, but subject to **section HG 7, qualifying company** means, in respect of any income year, a company (not being a unit trust) where—
- (a) at no time during the income year is the company a foreign company; and
 - (b) at all times during the income year the company—

-
- (i) has 5 or fewer shareholders (as determined where appropriate in accordance with **subsection (2) and section OD 9**); or
 - (ii) is a company whose governing instrument provides that each registered shareholder is entitled to occupation or use of a residential property in New Zealand owned by the company, such properties being the only significant assets of the company; and
- (c) subject to **subsection (4)**, each person who is at any time during the income year a shareholder in the company is—
- (i) a natural person other than a trustee; or
 - (ii) a trustee of a trust in respect of which all dividends, that are not non-cash dividends other than taxable bonus issues, derived by the trustee from the company during the income year are beneficiary income of beneficiaries who are not trustees or companies other than qualifying companies; or
 - (iii) another qualifying company; and
- (d) the foreign non-dividend income (if any) derived during the income year by the company does not, after deduction of the lesser of—
- (i) such part of that foreign non-dividend income as is income within the meaning of **section CC 3**; and
 - (ii) 10% of the annual gross income of the company for the income year,—
- exceed \$10,000 (or such greater sum as the Governor-General may from time to time by Order in Council declare for the purposes of this paragraph); and
- (e) a director election made in accordance with **section HG 3** by all persons who are directors of the company at the time of election is in effect at all times during the income year and has not been revoked; and
- (f) a shareholder election made in accordance with any of **section HG 4(1) to (3)**—
- (i) is in effect at all times during the income year; and
 - (ii) subject to **section HG 6**, has not been revoked,—

- in respect of each shareholder who is *sui juris*; and
- (g) the company has not ceased in that income year to be a qualifying company under **section HG 18** by virtue of ceasing to be a loss attributing qualifying company.
- (3) For the purposes only of **subsection (1)(b)(i)** and this subsection,—
- (a) shares in a company that are held by another company are, notwithstanding **section HG 2(a)**, deemed to be held by the shareholders in that latter company; and
 - (b) a natural person who is a shareholder in a company and all other shareholders in the company who are persons connected with that natural person by blood relationship, marriage, or adoption, in each case within the first degree of relationship, are treated as a single shareholder; and
 - (c) where—
 - (i) a person becomes at any time a shareholder in a qualifying company, whether by virtue of acquiring shares in the company or by virtue of the company becoming a qualifying company; and
 - (ii) that person is at the time treated with any other person as being a single shareholder under **paragraph (b)**,—

that person remains so treated, notwithstanding any subsequent death or marriage dissolution, for so long as he or she remains a shareholder in the qualifying company; and
 - (d) where a shareholder in a company is a trustee, and a shareholder election made in respect of that trust is at any time in effect,—
 - (i) the persons who have, between the first day of the 1991–92 income year and that time, derived from the trust beneficiary income being dividends derived from any qualifying company; or
 - (ii) the persons (other than the trustee) who made such an election,—

(whichever group of persons is greater in number) are deemed to be shareholders in the company at that time in substitution for the trustee, who is not counted as a shareholder at that time.

- (3A) A company does not cease to be a qualifying company in an income year by reason only of a failure to comply with **subsection (1)(c)(ii)** if—
- (a) as much of the dividends of the kind specified in **subsection (1)(c)(ii)** as is available to be distributed under general trust law is beneficiary income of beneficiaries (not being trustees or companies other than qualifying companies); and
 - (b) at any time since the company attained qualifying company status, at least some dividends derived by the trustee from the company have vested or been distributed as beneficiary income of beneficiaries (not being trustees or companies other than qualifying companies).
- (4) Any Order in Council made for the purposes of **subsection (1)(d)** may have retrospective effect to the extent that the order may be expressed to apply—
- (a) from the commencement of the income year in which the order is made; or
 - (b) in respect of income derived after any particular date within the income year in which the order is made.

Compare: 1994 No 164 s OB 3

OB 6 Meaning of income tax

- (1) Subject to **subsection (2)**, in this Act, unless the context otherwise requires, **income tax**—
- (a) subject to **paragraphs (b) to (l)**, means income tax imposed under this Act:
 - (b) in **sections CD 9, CW 10, CW 41, EG 1, FC 19, HK 26, and LF 2(3)**, in relation to any country or territory outside New Zealand, means any tax which is substantially of the same nature as income tax imposed under **section BB 1**:
 - (c) in the international tax rules and **section LC 1**, means,—
 - (i) in respect of any country or territory outside New Zealand, any tax (whether imposed by a central, state, or local government) which is substantially of the same nature as income tax imposed under **section BB 1** or as non-resident withholding tax imposed under the NRWT rules; but does not include—

- (A) any tax, penalty, or interest payable under any enactment of that country or territory imposing taxes, penalties, or interest on unpaid taxes, being a tax or penalty or interest which is substantially of the same nature as a civil penalty (as defined in section 3(1) of the Tax Administration Act 1994) or a criminal penalty imposed under Part 9 of the Tax Administration Act 1994 or interest imposed under Part 7 of that Act:
- (B) any amount in respect of tax which under the law of that country or territory a company paying a dividend has deducted, or was authorised to deduct, from the dividend and which the person deriving the dividend was not personally liable to pay:
 - (ii) in respect of New Zealand, income tax imposed under **section BB 1**; but does not include any civil penalty (as defined in section 3(1) of the Tax Administration Act 1994) or criminal penalty imposed under Part 9 of the Tax Administration Act 1994 or interest imposed under Part 7 of that Act:
- (d) in the dividend withholding payment rules (other than **subpart LF**), the imputation rules, **subparts HG and MF**, and **sections MD 3, ME 15 to ME 24, and NH 5**, means income tax levied under **section BB 1**; but does not include—
 - (i) a civil penalty (as defined in section 3(1) of the Tax Administration Act 1994), any specified superannuation contribution withholding tax, or fringe benefit tax; or
 - (ii) any interest payable under Part 7 of the Tax Administration Act 1994:
- (e) in the definition of **after-income tax earnings**, and in **subpart LF** (except **section LF 2(3)**), means income tax (as defined in **paragraph (c)** of this definition), whether of New Zealand or elsewhere, and includes any capital gains tax and branch repatriation or remittance tax:
- (f) in the dividend withholding payment rules, the imputation rules, and **subpart MF**, in relation to tax that has been

- paid by a taxpayer, includes references to provisional tax:
- (i) is defined in **section DB 1(2)** for the purposes of that section:
 - (l) is a tax prescribed in section 173D of the Tax Administration Act 1994.
- (2) In, or in relation to, the provisions in **subsection (3)**, the terms **income tax** and **tax** do not include—
- (a) dividend withholding payment penalty tax; or
 - (b) fringe benefit tax; or
 - (c) imputation penalty tax; or
 - (d) qualifying company election tax; or
 - (e) withdrawal tax.
- (3) The provisions are—
- (a) **Part B**, except for **sections BB 3(2) and BH 1**; and
 - (b) **sections CD 11(2), CF 2, CQ 2(1) and (3), CQ 5, CR 1(4) and (5), CU 1 to CU 13, CU 21 to CU 25, CW 1, CW 3 to CW 19, CW 22 to CW 27, CW 30 to CW 41, CW 43, CW 44, CW 46, CZ 3, CZ 5, and CZ 9**; and
 - (c) **sections DB 1, DB 42, DD 1 to DD 3, DD 10, DN 2, DN 6, DP 8, DP 9, and DU 2 to DU 10**; and
 - (d) **sections EC 12 to EC 14, EC 46, EG 2, EH 28 to EH 33, EH 60, EI 1, EI 4, EI 5, EJ 1, EX 18 to EX 24, EX 26, EX 30 to EX 41, EX 44, EX 46, EX 47, EX 50, EX 52, EX 57, EX 60, EY 41, EY 42, EY 45, EY 47, EZ 13 to EZ 15, EZ 34, EZ 35, and EZ 40**; and
 - (e) **sections FB 2, FC 3, FC 10, FC 13 to FC 21, FD 2, FD 4, FD 7, FD 9, and FD 10**; and
 - (f) **sections GC 9 and GD 9**; and
 - (g) **sections HB 1, HB 2, HE 1, HE 2, HH 2 to HH 6, HI 3 to HI 5, HJ 1, HK 14, and HZ 2**; and
 - (h) **sections IE 1, IF 1, IG 1, IG 2, and IG 7**; and
 - (i) **sections KC 1 to KC 5, KE 1, KF 1, KF 3, KG 1, KZ 1, and KZ 2**; and
 - (j) **sections LC 4, LC 5, LC 16, and LF 2**; and
 - (k) **sections MB 7, ME 11 to ME 14, ME 26, ME 28, MF 8, MF 9, and MG 15**; and
 - (l) **section NH 5**; and
 - (m) **sections OB 6(1)(b), (c), and (i), OE 2, and OE 5**; and
 - (n) the definitions of **corpus, eligible company, qualifying trust, tax avoidance, and taxable distribution** in **section OB 1**; and

- (o) sections 31 and 183 of the Tax Administration Act 1994.

Compare: 1994 No 164 ss OB 6, OZ 1(3)

Subpart OC—Special entities subject to tax

OC 1 Airport operators

- (1) This section applies notwithstanding anything in this Act.
- (2) For the purposes of this Act,—
 - (a) an airport operator is deemed to be a company; and
 - (b) the parties to the joint venture agreement under which an airport is operated are deemed to hold shares in the airport operator which operates that airport in the proportions in which, in terms of the joint venture agreement, the profits from the operation of that airport, after taking into account any adjustments in respect of previous years, are to be shared between those parties; and
 - (c) activities as an airport operator are deemed to be a business; and
 - (d) an airport operator is deemed to own every asset that, in relation to that airport operator, is an airport asset; and
 - (e) an airport operator is deemed to be a person that is separate from the Crown and every airport authority and every other person; and
 - (f) an airport operator is deemed to be neither a public authority nor a local authority; and
 - (g) an airport operator is deemed not to be a mutual association for the purposes of **section HF 1**; and
 - (h) where and to the extent that any party to a joint venture agreement provides funds for any purpose that relates to activities that, in relation to the airport operator that operates the airport to which the joint venture agreement relates, are activities as an airport operator, and those funds are expressly agreed by the parties to that joint venture agreement to be advanced for the purpose of those activities as an airport operator, and those funds are provided for a consideration that requires a provision, in the nature of interest, to be made by the airport operator for the benefit of the party that provided the funds,—
 - (i) the funds provided are deemed to be money borrowed by the airport operator; and

-
- (ii) the funds provided are deemed to be capital employed by the airport operator; and
 - (iii) that provision is deemed to be expenditure or, as the case may be, a loss in the nature of interest.
 - (3) For the purposes of this Act, where an airport operator is deemed, under **subsection (2)**, to own an asset, that asset is deemed to be acquired or to have been acquired by the airport operator at the time at which the airport operator acquires or acquired (otherwise than by way of purchase), or agrees to use or agreed to use, or commences to have the power to use or commenced to have the power to use that asset, and the airport operator is deemed to incur or to have incurred an amount of expenditure, in acquiring that asset, equal to the market value of that asset at that time.
 - (4) For the purposes of this Act, where any asset that, in relation to an airport operator, is an airport asset, ceases, otherwise than by reason of its disposal by sale, to be an airport asset, that asset is deemed to have been sold by the airport operator, on the day on which it ceased to be an airport asset, for a price equal to its market value on that day.
 - (5) If any question arises as to—
 - (a) the market value of any asset for the purposes of **subsection (3)**; or
 - (b) the cost of any airport asset; or
 - (c) the time at which an airport operator acquired or agreed to use or commenced to have the power to use any asset,—
it must be determined—
 - (d) by agreement between the airport operator and the Commissioner; or
 - (e) in default of such agreement, by the Commissioner.
 - (6) In this section,—

activities as an airport operator, in relation to an airport operator and to any joint venture agreement, means any activities undertaken for the purposes of the joint venture agreement by the airport operator in establishing, improving, maintaining, operating, or managing any airport (including the approaches, buildings, and other accommodation, and the equipment and appurtenances for the airport)

airport has the same meaning as in section 2 of the Airport Authorities Act 1966

airport asset, in relation to any airport operator, means—

- (a) any asset that, in terms of or under the joint venture agreement that relates to the airport operator, the airport authority that is a party to the venture agreement acquires or has acquired, or agrees to use or has agreed to use, or is given the power to use or has been given the power to use, for the purposes of the activities that in relation to the airport operator are activities as an airport operator, and that the airport authority has not disposed of, or ceased to agree to use, or ceased to have the power to use for those purposes (not being an asset in respect of which, where that acquisition, agreement to use, or power to use is an acquisition, agreement, or power under a lease or an agreement to lease, that lease or agreement to lease is other than a specified or a finance lease):
- (b) any asset that is owned by any person for the purposes of a depreciation sinking fund in respect of any asset that is an airport asset:
- (c) any asset that is owned by any person for the purposes of a loan redemption sinking fund in respect of any loan, being a loan the interest payments in respect of which are, under the joint venture agreement that relates to the airport operator, a charge against so much of the joint income (of the parties to the joint venture agreement) as has not been allocated to or distributed to any of the said parties:
- (d) any asset that the airport operator has purchased or otherwise acquired with funds that are, or, as the case may be, in exchange for property that is, acquired in the carrying on of activities as an airport operator and not allocated or, as the case may be, distributed to any of the parties to the joint venture agreement that relates to the airport operator.

Compare: 1994 No 164 s OC 1

OC 3 Statutory producer boards

For the purposes of this Act,—

- (a) a statutory producer board is deemed to be a company; and
- (b) the activities of any statutory producer board are deemed to be a business; and

- (c) levies received by any statutory producer board, other than levies charged specifically for capital development, are treated as income; and
- (d) the provisions of **section DA 1(1)** apply to expenditure incurred in fulfilling the functions of any statutory producer board (not being expenditure which is not allowed as a deduction under any of **sections DA 2, DB 1, DB 7, DB 8, DB 14, DB 19, DB 23, DW 2, and GD 4**) as if that expenditure were—
 - (i) incurred in deriving income of the producer board; or
 - (ii) necessarily incurred in the carrying on of a business by the producer board.

Compare: 1994 No 164 s OC 3

OC 4 Co-operative marketing companies: regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations under this Act for all or any of the following purposes:
 - (a) authorising the Commissioner to classify as income (other than as a dividend) of any shareholder of a co-operative marketing company the whole or any part of any amount paid to the shareholder on the surrender of any share in the company, or on the liquidation of the company, in excess of the available subscribed capital per share, calculated under the slice rule, of the share surrendered or of the shareholder's shares in the company;
 - (b) authorising the Commissioner to allocate any amount so classified as income to such income year or income years as the Commissioner thinks fit;
 - (c) conferring on the Commissioner such discretionary powers as may be necessary for the purposes of the regulations.
- (2) Regulations made under **subsection (1)** may make different provision in respect of different classes of co-operative marketing companies.
- (3) In this section, **co-operative marketing company** means—
 - (d) any company referred to in any of section OC 4(3)(a) to (c) of the Income Tax Act 1994 or any such company that is reregistered as a co-operative company under

Part 2 of the Co-operative Companies Act 1996 or as a co-operative dairy company under Part 3 of that Act,— being a company that was in existence at the beginning of the 1988–89 income year and to which any of sections 201 to 203 of the Income Tax Act 1976 (as repealed by section 41(1) of the Income Tax Amendment Act (No 5) 1988) applied at that time.

Compare: 1994 No 164 s OC 4

Subpart OD—Control interests, associated parties, and nominees

OD 1 Defining when company is under control of persons

- (1) For the purposes of this Act, a company is deemed to be under the control at any time of the persons—
 - (a) the aggregate of whose direct voting interests in the company at the time exceeds 50%; or
 - (b) in any case where at the time a market value circumstance exists in respect of the company, the aggregate of whose direct market value interests in the company at the time exceeds 50%; or
 - (c) who have at the time control of the company by any other means whatsoever.
- (2) For the purposes of this section, where any person (referred to in this subsection as the **nominee**) holds any rights at any time,—
 - (b) being a relative at the time of another person,— the rights are deemed to be held at the time by the other person as well as by the nominee, as if the nominee, the other person, and all other such nominees of the other person were at the time a single person.

Compare: 1994 No 164 s OD 1

Measurement of control and ownership interests

OD 2 Purpose of provisions governing measurement of voting and market value interests

Except where otherwise expressly provided, **sections OD 3 to OD 6** are intended to provide for the measurement of a person's direct or indirect ownership in a company by reference to the percentage of voting rights which that person may

directly or indirectly exercise, except where certain specified circumstances exist in relation to a company, in which event a person's direct or indirect ownership in that company is also measured by reference to the percentage of the total market value of interests in that company which that person holds.

Compare: 1994 No 164 s OD 2

OD 3 Voting interests

- (1) Subject to the succeeding provisions of this section, a person's voting interest in a company at any time equals the percentage of the total shareholder decision-making rights in respect of the company at that time carried by shares or options held by the person at that time.
- (2) Notwithstanding **subsection (1)**, where at any time in respect of any company the percentage of shareholder decision-making rights carried by shares or options held by any person differs as between the types of decision-making listed in the definition of **shareholder decision-making rights**, the person's voting interest in the company at that time equals the average at that time of those differing percentages.
- (3) For the purposes of this section,—
 - (a) notwithstanding any other provision of this Act, in the case of any special corporate entity,—
 - (i) where no shares have been issued by the special corporate entity, the special corporate entity is deemed to have issued shares which shares carry all shareholder decision-making rights and all other rights of ownership in respect of the special corporate entity; and
 - (ii) the members or, if there are no members, the directors of the entity (including, in the case of any public authority or any State enterprise that has neither members nor directors as so described, any relevant Minister of the Crown performing the function of a director) for the time being, in their collective capacity as such, are deemed to hold all shares and options over shares in that special corporate entity and rights derived from those shares and options (including a voting interest deemed to arise under **paragraph (d)**) as if those members or directors were always the same

single person (other than a company) having an existence co-extensive with that of the special corporate entity and holding nothing other than rights in respect of the special corporate entity; and

- (c) where—
- (i) any company has issued an excluded security; or
 - (ii) any company has issued a pre-1991 budget security; or
 - (iii) an excluded option has been granted in respect of a share in any company,—
- the company (or the grantor of the option, if not the company) is deemed not to have issued or granted that excluded security, pre-1991 budget security, or excluded option, and the holder of that excluded security, pre-1991 budget security, or excluded option is deemed not to hold it; and
- (d) where at any time any company (in this subsection referred to as the **shareholder company**) has or is deemed to have, whether under this paragraph or otherwise, a voting interest in another company (in this subsection referred to as the **issuing company**),—
- (i) each person who has a voting interest in the shareholder company is at that time deemed to have (to be aggregated with any other percentage voting interest in the issuing company which the person has at that time); and
 - (ii) the shareholder company is deemed at that time not to have—
- that part of the shareholder company's voting interest in the issuing company which is calculated by multiplying the shareholder company's voting interest in the issuing company by the person's voting interest in the shareholder company.

Compare: 1994 No 164 s OD 3

OD 4 Market value interests

- (1) Subject to the succeeding provisions of this section, a person's market value interest in a company at any time equals the percentage of the total market value of shares and options over shares in that company at that time which the market value of

shares and options over shares in the company held by the person at that time represents.

- (2) For the purposes of **subsection (1)**, the market value of any share in a company that is subject to an option is determined having regard to the terms of the option.
- (3) For the purposes of this section,—
- (a) notwithstanding any other provision of this Act, in the case of any special corporate entity,—
- (i) where no shares have been issued by the special corporate entity, the special corporate entity is deemed to have issued shares which shares carry all shareholder decision-making rights and all other rights of ownership in respect of the special corporate entity; and
- (ii) the members or, if there are no members, the directors of the entity (including, in the case of any public authority or any State enterprise that has neither members nor directors as so described, any relevant Minister of the Crown performing the function of a director) for the time being, in their collective capacity as such, are deemed to hold all shares and options over shares in that special corporate entity and rights derived from those shares and options (including a market value interest deemed to arise under **paragraph (d)**) as if those members or directors were always the same single person (other than a company) having an existence co-extensive with that of the special corporate entity and holding nothing other than rights in respect of that special corporate entity; and
- (c) where—
- (i) any company has issued an excluded security; or
- (ii) any company has issued a pre-1991 budget security; or
- (iii) an excluded option has been issued in respect of a share in any company,—
- the company (or the grantor of the option, if not the company) is deemed not to have issued or granted that excluded security, pre-1991 budget security, or

- excluded option, and the holder of that excluded security, pre-1991 budget security, or excluded option is deemed not to hold it; and
- (d) where at any time any company (in this subsection referred to as the **shareholder company**) has or is deemed to have, whether under this paragraph or otherwise, a market value interest in another company (in this subsection referred to as the **issuing company**),—
- (i) each person who has a market value interest in the shareholder company is at that time deemed to have (to be aggregated with any other percentage market value interest in the issuing company which the person has at that time); and
- (ii) the shareholder company is at that time deemed not to have—
- that part of the shareholder company's market value interest in the issuing company which is calculated by multiplying the shareholder company's market value interest in the issuing company by the person's market value interest in the shareholder company.
- (4) For the purposes of the application of **subsection (3)(d)**, and notwithstanding any other provision of this section, where—
- (a) in respect of any company (referred to in this subsection as the **first company**) at any time no direct market value circumstance exists; and
- (b) it is necessary to determine the direct market value interest of a person in the first company in order to apply **subsection (3)(d)** in respect of an issuing company (as referred to in **subsection (3)(d)**, and whether that issuing company is the first company or any other company) because a direct market value circumstance exists at that time in respect of some other relevant company,—
- the direct market value interest of the person in the first company is equal to the direct voting interest of the person in the first company.

Compare: 1994 No 164 s OD 4

OD 5 Modifications to measurement of voting and market value interests in case of continuity provisions

- (1) The provisions of this section apply only to modify the provisions of **sections OD 3 and OD 4** for the purposes of the application of the continuity provisions.
- (2) Where any person has acquired any share or option over a share in a company on the death of any other person, as a beneficiary or trustee under the will or intestacy of the deceased person, that person is deemed to have acquired the share or option on the date upon which the share or option was acquired, or deemed under this section to have been acquired, by the deceased person, and to have held it at all times until the time of the acquisition by the person.
- (3) Where at any time—
 - (a) any share in a company (in this subsection referred to as the **first company**) or option over a share in the first company is held by a trustee; and
 - (b) that trustee is a company other than—
 - (i) Public Trust; or
 - (ii) any company in which Public Trust holds all voting and market value interests; or
 - (iii) a trustee company; and
 - (c) any share in the trustee company or option over a share in the trustee company is disposed of or issued or granted,—

that trustee is treated as having disposed of that share or option in the first company at that time to an unrelated third party and to have immediately re-acquired that share or option, except where and to the extent that the disposal or issue of the share or option in the trustee company—
 - (d) can be shown not to have changed the beneficial ownership of the share or option over a share in the first company; or
 - (e) otherwise can be shown not to have a purpose or effect of defeating the intent and application of any of the continuity provisions.
- (4) All persons who are trustees of a trust are, in respect of that trust and any shares or options over shares in a company held by those trustees in respect of that trust, treated as the same single person (other than a company, and separate and distinct from those persons who are trustees in their capacities other

than as trustees of the trust) if, and only if, in no case does the establishment of the trust, the termination of the trust, or any change in the trustees of that trust have a purpose or effect of defeating the intent and application of any of the continuity provisions.

- (5) Notwithstanding **sections OD 3(3)(d) and OD 4(3)(d)**, where at any time—
- (a) any person has a direct voting interest or a direct market value interest of less than 10% in a company (as determined before the application of **sections OD 3(3)(d) and OD 4(3)(d)** as modified by **subsection (6)**); and
 - (b) the person is not a company associated at that time with the company,—
the direct voting interest or direct market value interest is deemed at that time not to be an interest of the person and is deemed instead to be an interest of a notional single person (other than a company) whose existence is co-extensive with that of the company and who—
 - (c) holds all those interests in the company to which this subsection applies; and
 - (d) holds no voting interests or market value interests in any company other than the company.
- (5A) A qualifying unit trust may apply **subsection (5B)**.
- (5B) The unit holders of a qualifying trust, in their collective capacity, are treated as holding all the shares in the qualifying unit trust as if the unit holders were always the same notional single person (other than a company) whose existence is co-extensive with that of the qualifying unit trust and who only holds shares in the qualifying unit trust.
- (5C) If a qualifying unit trust exists on the first day of the 2001–02 tax year and chooses to apply **subsection (5B)**, on the first day of that tax year, the balances of the qualifying unit trust's imputation credit account and dividend withholding payment account and any losses carried forward are treated as having been accumulated by the same notional single person, and that person is treated as always having existed in respect of the balances.
- (6) **Sections OD 3(3)(d) and OD 4(3)(d)** do not apply to deem any part of a voting interest or market value interest which, within the meaning of those provisions, a shareholder company has in an issuing company to be that of a person (in this subsection

referred to as the **shareholder**) who has a voting interest or market value interest, as the case may be, in the shareholder company where—

- (a) the shareholder company—
 - (i) is a limited attribution company; and
 - (ii) has (including any interests which the shareholder company is deemed to have under **section OD 3(3)(d) or OD 4(3)(d)** as modified by this subsection and **subsection (5)**) a voting interest or market value interest, as the case may be, of less than 50% in the issuing company; or
- (b) the shareholder (determined as if **subsection (5)** did not apply)—
 - (i) is not a person associated with the issuing company; and
 - (ii) would, by virtue of the application of **section OD 3(3)(d) or OD 4(3)(d)**, be deemed to have, as a result of the shareholder's voting interest or market value interest in the shareholder company (as determined when excluding any other voting interest or market value interest, as the case may be, which the shareholder has or is deemed to have in the issuing company), a voting interest or market value interest, as the case may be, of less than 10% in the issuing company.

(6A) **Subsection (6B)** applies if shares in a company (**company B**) are transferred or issued to shareholders of another company (**company A**) or to a nominee of a shareholder of company A, or are retained by company A as a nominee of a shareholder of company A, and—

- (a) before the transfer, issue, or retention,—
 - (i) company A is treated as holding voting or market value interests in another company (**company C**) under **section OD 5(6)(b)**; and
 - (ii) company A holds all voting interests, and if a market value circumstance exists, all market value interests in company B, calculated as if **sections OD 3(3)(d) and OD 4(3)(d)** did not apply to deem company A's interests to be held by others; and
- (b) at the time of the transfer, issue, or retention, company A is a limited attribution company; and

- (c) after the transfer, issue, or retention,—
 - (i) company B is treated as holding voting or market value interests in company C under **section OD 5(6)(b)**; and
 - (ii) company B is a limited attribution company at all relevant times.
- (6B) Despite **sections OD 3(3)(d) and OD 4(3)(d)**, company B is treated as holding voting or market value interests in company C, being interests which company A held in company C under **section OD 5(6)(b)**—
 - (a) for the periods before the transfer, issue, or retention that company A held interests in company C; and
 - (b) for the purpose of applying the continuity provisions on and after the date of transfer, issue, or retention; and
 - (c) to the extent that, immediately after the transfer, issue, or retention, there is a group of persons who hold common interests in company A and company B, calculated as if the only voting interests, market value interests, or voting interests and market value interests in company A and company B were those that are treated as being held by company A and company B under **section OD 5(6)(b)**.
- (6C) In **subsection (6A)(c)(ii), at all relevant times** means,—
 - (a) in relation to the offset of a loss under **Part I**, the time between the date of transfer, issue, or retention and the last day of the period in which the loss is offset;
 - (b) in relation to a credit subject to the continuity provisions, the time between the date of transfer, issue, or retention and the date the credit is cancelled by a subsequent debit.
- (6D) In **subsection (6B), common interests** means,—
 - (a) if a market value circumstance does not exist in respect of company A or company B, the common voting interest;
 - (b) if a market value circumstance exists in respect of company A but not in respect of company B, the lower of the common voting interest in company A and company B and the market value interest in company A;
 - (c) if a market value circumstance exists in respect of company B but not in respect of company A, the lower of

- the common voting interest in company A and company B and the market value interest in company B:
- (d) if a market value circumstance exists in respect of both company A and company B, the lower of the common market value interest and common voting interest in both companies A and B.
- (6E) In **subsection (6D)**,—
- common market value interest** of a person in relation to company A and company B is the market value interest held by the person in each company measured by either—
- (a) the percentage market value interest of the person in each company if the percentages are the same in each case; or
 - (b) the lowest percentage market value interest of the person in each company if the percentages differ
- common voting interest** of a person in relation to company A and company B is the voting interest held by the person in each company measured by either—
- (a) the percentage voting interest of the person in each company, if the percentages are the same in each case; or
 - (b) the lowest percentage voting interest of the person in each company if the percentages differ.
- (6F) For the purpose of measuring common interests, **sections OD 3(3)(b) and OD 4(3)(b) and (d)** do not apply to deem a nominee's or a company's voting or market value interest in company A or company B to be held by another person if the person would be treated as holding a voting or market value interest of less than 10% in company A or company B by virtue of those sections applying.
- (7) For the purposes of this Act,—
- (a) the provisions of **subsections (5), (5B), (5C), (6), (6A), (6B), and (6F)** are intended to have concessionary effect; and
 - (b) where at any time, in respect of any company and any of the continuity provisions,—
 - (i) the requirements of that continuity provision are not satisfied; but
 - (ii) those requirements would have been satisfied but for the application, to any particular extent, of any 1 of those subsections,—

the requirements of that continuity provision in respect of that company are deemed to have been satisfied at that time.

(8) For the purposes of this Act, where, and to the extent to which, in respect of any company and any of the continuity provisions at any time,—

(a) the requirements of that continuity provision would not have been satisfied but for the application, in the case of any 1 or more voting or market value interests in the company and any period or periods of time, of either or both of **subsections (5) and (6)**; and

(b) the failure, but for that application, to meet those requirements was not by reason only of—

(i) the sale of shares in a company in the ordinary course of trading on a recognised exchange between persons; or

(ii) the redemption or other cancellation of shares in a company which is a unit trust that falls within any of **paragraphs (a), (b), and (c)** of the definition of the term **widely-held trust** in **section OB 1**, held by persons; or

(iii) the redemption or other cancellation of shares in a company which is a unit trust that falls within any of **paragraphs (a), (b), and (c)** of the definition of the term **widely-held trust** in **section OB 1**, which were acquired by the manager or trustee of the unit trust in the ordinary course of the manager's or trustee's activities in respect of the unit trust from persons—

whose direct voting interests or direct market value interests in the company or unit trust were at all relevant times interests to which **subsection (5)** applied; and

(c) the directors of the company know or could reasonably be expected to know (without making enquiries specifically for the purposes of the application of the continuity provisions) at that time that the requirements of that continuity provision would not have been satisfied at that time but for that application,—

the requirements of that continuity provision are deemed not to have been satisfied at that time.

- (9) For the purposes of this Act, where and to the extent to which at any time, in respect of any company and any of the continuity provisions, the requirements of that continuity provision are not satisfied and would have been satisfied but for a change in the market value interest of any 1 or more persons which is solely attributable to—
- (a) any change in the market value of the tangible and intangible assets of the company; or
 - (b) any change in the market value of any 1 or more shares in the company which is not attributable to any change in the terms of those shares; or
 - (c) a combination of the factors referred to in **paragraphs (a) and (b)**,—

the requirements of that continuity provision in respect of that company are deemed to have been satisfied at that time.

- (10) In this section,—

limited attribution company means any—

- (a) building society; or
- (b) co-operative company registered under the Co-operative Companies Act 1956, Part 2 or 3 of the Co-operative Companies Act 1996, the Co-operative Dairy Companies Act 1949, the Co-operative Freezing Companies Act 1960, or the Co-operative Forestry Companies Act 1978; or
- (c) listed company; or
- (d) widely-held company; or
- (e) limited attribution foreign company

limited attribution foreign company means, at any time, any company which at that time—

- (a) is either—
 - (i) not a company resident in New Zealand; or
 - (ii) a company resident in New Zealand which, under a double tax agreement, is treated as not being resident in New Zealand for the purposes of the double tax agreement; and
- (b) is not a closely-held company

listed company means, at any time, a company any shares in which are at that time quoted on the official list of a recognised exchange.

Compare: 1994 No 164 s OD 5

OD 5A Modifications to measurement of voting and market value interests in cases of continuity provisions and demutualisation of insurers

- (1) The provisions of this section apply only to modify the provisions of **sections OD 3 to OD 5** for the purposes of the application of the continuity provisions in cases where an insurer ceases to be a special corporate entity as a result of demutualisation.
- (2) If—
 - (a) a person acquires a voting interest or a market value interest in an insurer on the demutualisation of the insurer; and
 - (b) immediately prior to the insurer ceasing to be a special corporate entity on the demutualisation the person was a member of the insurer and the interest is acquired solely by virtue of that membership; and
 - (c) the insurer ceases to be a special corporate entity as a result of the demutualisation,—then, with effect from the date of acquisition but subject to **section OD 5(5)**, the person is treated as having held the voting interest or market value interest at all times during the period prior to the demutualisation in which the insurer was a special corporate entity.
- (3) If—
 - (a) a person acquires a voting interest or a market value interest in a life insurer on the demutualisation of the life insurer; and
 - (b) the person is the trustee of a trust for the benefit of persons who were members of the life insurer immediately prior to the life insurer ceasing to be a special corporate entity on the demutualisation, which trust is established prior to the demutualisation process—
 - (i) as an interim holding vehicle pending distribution to those members of all shares held by the trust; or
 - (ii) to exercise voting rights on behalf of those members in relation to any holding company established prior to the demutualisation process which holds all the shares in the life insurer; and
 - (c) the Commissioner is satisfied, and has notified the trustee accordingly, that the trust falls within **paragraph (b)**; and

- (d) the life insurer ceases to be a special corporate entity as a result of the demutualisation,—
then, with effect from the date of acquisition, the trustee is treated as having held the voting interest or market value interest at all times during the period prior to demutualisation in which the life insurer was a special corporate entity.
- (4) If and to the extent that—
- (a) **subsection (3)** applies; and
 - (b) the notional single person referred to in **section OD 5(5)** acquires a voting interest or market value interest in the life insurer on—
 - (i) the distribution by the trustee of the shares from the trust; or
 - (ii) the issue of shares by the holding company; and
 - (c) the persons referred to in **section OD 5(5)(a) and (b)** whose direct voting interests or direct market value interests are deemed under **section OD 5(5)** to be those of the notional single person resulting in the notional single person's interest in the life insurer—
 - (i) were members of the life insurer immediately prior to the life insurer ceasing to be a special corporate entity on the demutualisation, or are trustees for any such members; and
 - (ii) acquired their direct voting interests or direct market value interests by virtue of that membership,—
- then, with effect from the date of the acquisition, the notional single person is treated as having existed and having held the voting interest or market value interest at all times during—
- (d) the period prior to demutualisation in which the life insurer was a special corporate entity; and
 - (e) the period of the trust prior to the acquisition by the notional single person.
- (5) If—
- (a) a person acquires a voting interest or a market value interest in an insurer on and solely by virtue of the demutualisation of the insurer; and
 - (b) the person is the trustee of a community trust for the benefit of a community (or part of a community) which community (or part) generally includes persons who were members of the insurer immediately prior to the

insurer ceasing to be a special corporate entity on the demutualisation; and

- (c) the Commissioner is satisfied, and has notified the trustee accordingly, that the trust falls within **paragraph (b)**; and
- (d) the insurer ceases to be a special corporate entity as a result of the demutualisation,—

then, with effect from the date of acquisition, the trustee is treated as having held the voting interest or market value interest at all times during the period immediately prior to demutualisation in which the insurer was a special corporate entity.

(6) If—

- (a) an insurer which is a special corporate entity undergoes the process of demutualisation; and
- (b) the insurer (or another member of the same group of companies, the relevant loss making entity being referred to in this subsection as the **loss company**) had a net loss in a tax year prior to the 1992–93 tax year; and
- (c) the loss company carried that loss forward to the 1992–93 tax year in accordance with the Income Tax Act 1976; and
- (d) the loss has not been offset against net income for any period prior to demutualisation,—

then, notwithstanding **section IF 1(6)**, for the purposes of **Part I**, with effect from the date on which the insurer ceases to be a special corporate entity on the demutualisation, the loss is deemed to have arisen on the first day of the loss company's 1992–93 tax year and not to have arisen in the earlier tax year.

(7) If—

- (a) an insurer which is a special corporate entity undergoes the process of demutualisation; and
- (b) the insurer (or another member of the same group of companies) has, at the time of the commencement of the process of demutualisation, a credit in its imputation credit account, dividend withholding payment account, or branch equivalent tax account which arose before 1 April 1992,—

then, notwithstanding **sections ME 5(4)(e), MF 4(6)(f), and MG 5(4)(e)**, for the purposes of **Part M**, with effect from the date on which the insurer ceases to be a special corporate entity on the

demutualisation, the credit is deemed first to have arisen in the account on 1 April 1992 and not when it actually arose.

Compare: 1994 No 164 s OD 5A

OD 5B Modifications to measurement of voting and market value interests in cases of continuity provisions and legislative conversion of companies of proprietors

- (1) This section applies to modify **sections OD 3, OD 4, and OD 5** for the purpose of the application of the continuity provisions if a company of proprietors is established by a statute of a legislature outside New Zealand and the company of proprietors becomes a company as a result of another statute.
- (2) **Subsection (3)** applies if—
 - (a) a person acquires a voting interest or a market value interest in a company on the conversion of a company of proprietors; and
 - (b) immediately before the conversion, the person was a proprietor of the company of proprietors and solely by virtue of being a proprietor, the person acquired the interest in the company.
- (3) Subject to **section OD 5(5)**, on and after the date of the acquisition,—
 - (a) the company of proprietors is treated as having been a company with shareholders at all times before the conversion; and
 - (b) the person is treated as having held the voting interest or market value interest at all times before the conversion.

Compare: 1994 No 164 s OD 5B

OD 6 Modifications to measurement of voting and market value interests in case of credit account continuity provisions

For the purposes only of the application of the credit account continuity provisions,—

- (a) the definition of **excluded option** applies as if **paragraph (e)** of that definition were omitted; and
- (b) the definition of **market value circumstance** applies as if, in **paragraphs (a), (b), and (f)** of that definition, the words “an excluded security or” were omitted from each place where they appear, and the word “a” substituted; and

(c) **sections OD 3(3)(c)(i) and OD 4(3)(c)(i)** do not apply.

Compare: 1994 No 164 s OD 6

Associated persons

OD 7 Defining when 2 persons are associated persons

- (1) For the purposes of this Act, unless the context otherwise requires, at any time associated persons or persons associated with each other are—
- (a) 2 companies where at the time there is a group of persons—
 - (i) the aggregate of whose voting interests in each company is equal to or exceeds 50%; or
 - (ii) in any case where at the time a market value circumstance exists in respect of either company, the aggregate of whose market value interests in each company is equal to or exceeds 50%; or
 - (iii) who have control of both companies by any other means whatsoever; or
 - (b) a company and any person (other than a company) where at the time—
 - (i) the person has a voting interest in the company equal to or exceeding 25%; or
 - (ii) in any case where at the time a market value circumstance exists in respect of the company, the person has a market value interest in the company equal to or exceeding 25%; or
 - (c) 2 persons who are at the time relatives; or
 - (d) a partnership and any person who is—
 - (i) at the time a partner in the partnership; or
 - (ii) a person associated at the time (under any of the other provisions of this subsection) with a partner in the partnership.
- (2) For the purposes of **subsection (1)(a) and (b)**, where any person (referred to in this subsection as the **nominee**) holds any rights at any time,—
- (b) being a relative at the time of another person,—
the rights are deemed to be held at the time by the other person as well as by the nominee, as if the nominee, the other person, and all other such nominees of the other person were at the time a single person.

- (3) **Subsection (1)(a)(iii)** does not apply to a company that is or was—
- (a) a State enterprise; or
 - (b) a Crown research institute; or
 - (d) a Crown health enterprise; or
 - (e) a member of the same group of companies as a company that meets any of **paragraphs (a) to (d)**.
- (4) **Subsection (1)(c)** does not apply for the purposes of **sections HH 3C and HH 3D**.

Compare: 1994 No 164 s OD 7

OD 8 Further definitions of associated persons

- (1) For the purposes of **sections CT 3 to CT 5, DT 1 to DT 11, DT 13, DT 15, DT 16, DT 18, DT 19, DZ 4, DZ 5, DZ 7 to DZ 9, EJ 10 to EJ 16, EZ 2, GC 12, GD 2, and GD 15**, associated persons, or persons associated with each other, are—
- (a) any 2 companies where there is a group of persons—
 - (i) the aggregate of whose voting interests in each company is equal to or exceeds 50%; or
 - (ii) in any case where a market value circumstance exists in respect of either company, the aggregate of whose market value interests in each company is equal to or exceeds 50%; or
 - (iii) who have control of both companies by any other means whatsoever; or
 - (b) a company and any person (other than a company) where—
 - (i) the person has a voting interest in the company equal to or exceeding 50%; or
 - (ii) in any case where a market value circumstance exists in respect of the company, the person has a market value interest in the company equal to or exceeding 50%; or
 - (c) any 2 persons who are relatives; or
 - (d) a partnership and any person where that person is a partner in the partnership; or
 - (e) a partnership and any person, where that person and any partner in that partnership are associated persons; or
 - (f) a trustee of a trust and a trustee of another trust, if the same person is a settlor of both trusts; or

- (g) a trustee of a trust and a person who has benefited or is eligible to benefit under that trust; or
 - (h) a person and an organisation which is described in **section CW 30 or CW 33 or DV 9** and that is controlled, directly or indirectly, by that person or by a relative of that person.
- (2) For the purposes of **subsection (1)**,—
- (a) shares in a company or interests in a partnership held directly or indirectly by or for a company, partnership, or trust are deemed to be held proportionately by or for the shareholders, partners, or beneficiaries in the company, trust, or partnership; and
 - (b) a person who is an individual is deemed to hold the shares in a company or the interests in a partnership which are held, or deemed to be held, by or for the person's relatives; and
 - (c) shares in a company or interests in a partnership deemed to be held by a person by reason of the application of **paragraph (a)** are, for the purposes of applying **paragraph (a) or (b)**, treated as being held directly by that person, but shares or interests deemed to be held by a person by reason of the application of **paragraph (b)** are not treated as being held by that person for the purpose of again applying **paragraph (b)** in order to make another person the deemed holder of those shares or interests.
- (3) In **sections DS 6, DT 2, and EC 22(3), subpart EE, sections EW 52, EW 59, EZ 8, EZ 38, and FC 13, subpart FG, sections FH 1(2), GC 14B, GD 13, HK 11, KH 2, and LC 1, subpart LF, sections NH 7, OE 7, and OE 8**, and in the international tax rules, associated persons or persons associated with each other are—
- (a) any 2 companies where—
 - (i) any group of persons—
 - (A) has voting interests in each of those companies totalling in aggregate 50% or more; or
 - (B) in any case where a market value circumstance exists in respect of either company, has market value interests in each of those companies totalling in aggregate 50% or more; or

- (C) has control of each of those companies by any other means whatsoever; or
- (ii) any group of persons holds income interests in each of those companies totalling in aggregate 50% or more, and for this purpose **sections EX 8 to EX 10, EX 13, EX 17, EX 27, and GC 9** apply as if each reference to a “CFC”, “controlled foreign company”, or “foreign company” were a reference to a “company” and as if **section GC 9(6)** were omitted; or
- (b) any company and any person (other than a company) who holds an income interest of 50% or more in that company, and for this purpose **sections EX 8 to EX 10, EX 13, EX 17, EX 27, and GC 9** apply as if each reference to a “CFC”, “controlled foreign company”, or “foreign company” were a reference to a “company” and as if **section GC 9(6)** were omitted; or
- (c) any company and any person where the person is by virtue of any of the provisions of this subsection associated with another person who is by virtue of any of the provisions of this subsection other than this paragraph associated with the company; or
- (d) any 2 persons who are relatives; or
- (e) a partnership and any person where that person is a partner in the partnership; or
- (f) a partnership and any person, where that person and any partner in that partnership are, by virtue of any of the provisions of this subsection other than this paragraph, associated persons; or
- (g) any 2 persons where—
- (i) 1 person is the trustee of a trust under which the other person has benefited, or will benefit, either directly or indirectly; or
- (ii) 1 person is the trustee of a trust under which the other person (where the other person is, by virtue of any of the provisions of this subsection or **section OD 7**, deemed to be associated with any settlor of the trust) may benefit either directly or indirectly:

provided that this paragraph does not apply where the trust is only for the benefit of the employees of an employer and neither the other person nor any person

- associated (by virtue of any of the provisions of this subsection) with that other person directly or indirectly manages or controls the affairs of the trust; or
- (h) any 2 persons where each person is the trustee of a trust in relation to which trusts there is at least 1 settlor in common:
provided that this paragraph does not apply where—
- (i) the settlor (not being a company) settles or had settled property on the terms of the trust for the benefit of the employees of that settlor only, and neither that settlor nor any person associated (by virtue of any of the provisions of this subsection) with that settlor directly or indirectly manages or controls the affairs of the trust; or
- (ii) the settlor (being a company) settles or had settled property on the terms of the trust for the benefit of its employees only, and that settlor, any person associated (by virtue of any of the provisions of this subsection) with that settlor, any executive of that settlor, any director of that settlor, or any person holding a direct voting interest, or, where a market value circumstance exists in respect of the settlor, a direct market value interest, of 25% or more in that settlor does not, directly or indirectly, manage or control the affairs of the trust; or
- (i) any 2 persons where 1 person is the trustee of a trust of which the other person is a settlor:
provided that this paragraph does not apply where—
- (i) the other person (not being a company) settles or had settled property on the terms of the trust for the benefit of the employees of that other person only and neither that other person nor any person associated (by virtue of any of the provisions of this subsection) with that other person directly or indirectly manages or controls the affairs of the trust; or
- (ii) the other person (being a company) settles or had settled property on the terms of the trust for the benefit of its employees only, and that other person, any person associated (by virtue of any of the provisions of this subsection) with that other

- person, any executive of that other person, any director of that other person, or any person holding a direct voting interest, or, where a market value circumstance exists in respect of the other person, a direct market value interest, of 25% or more in that other person does not, directly or indirectly, manage or control the affairs of the trust; or
- (j) any 2 persons who habitually act in concert with respect to the holding or exercise of any of the things in **section EX 5(1)**:
provided that the persons are associated persons only in respect of the thing or things in relation to which they act in concert.
- (3A) Despite **subsection (3)(a)**, in the international tax rules (apart from **sections CD 35 to CD 42 and CZ 11**), 2 companies are not associated persons or persons associated with each other if 1 company, but not both companies, is not resident in New Zealand.
- (4) In **sections CB 6 to CB 10, CB 12, CB 13, FF 6, and GD 9**, associated persons or persons associated with each other are—
- (a) any 2 companies where there is a group of persons—
- (i) the aggregate of whose voting interests in each company is equal to or exceeds 50%; or
 - (ii) in any case where a market value circumstance exists in respect of either company, the aggregate of whose market value interests in each company is equal to or exceeds 50%; or
 - (iii) who have control of both companies by any other means whatsoever; or
- (b) a company and any person (other than a company) where—
- (i) the person; or
 - (ii) any spouse of the person; or
 - (iii) any infant child of the person; or
 - (iv) any trustee of a trust under which such person or spouse or infant child has benefited or is eligible to benefit,—
- or any 2 or more of them have, when aggregated, a voting interest in the company equal to or exceeding 25% or, in any case where a market value circumstance

- exists in respect of the company, a market value interest in the company equal to or exceeding 25%; or
- (c) any 2 persons 1 of whom is the spouse or infant child of the other person, or is a trustee of a trust under which that spouse or infant child has benefited or is eligible to benefit; or
 - (d) a partnership and any person where that person is a partner in that partnership; or
 - (e) a partnership and any person, where that person and any partner in that partnership are, in accordance with this subsection, associated persons.
- (6) **Subsections (1)(a)(iii), (3)(a)(i)(C) and (ii) and (b), and (4)(a)(iii)** do not apply to a company that is or was—
- (a) a State enterprise; or
 - (b) a Crown research institute; or
 - (d) a Crown health enterprise; or
 - (e) a member of the same group of companies as a company that meets any of **paragraphs (a) to (d)**.

Compare: 1994 No 164 s OD 8

Nominees

OD 9 Nominees are transparent

- (1) In this Act, unless the context otherwise requires, if a person holds something or does something as a nominee for another person, the other person holds or does that thing and the nominee is ignored.
- (2) A person holds or does something as a nominee for another person if the person acts on the other person's behalf. However, a trustee is a nominee only if the trustee is a bare trustee.

Compare: 1994 No 164 ss CG 3(a), OB 1 "nominee", "relative" (b), OB 3(2), OD 1(2)(a), OD 3(3)(b), OD 4(3)(b), OD 7(2)(a), OD 8(5)

Subpart OE—Source of income and residence

OE 1 Determination of residence of person other than company

- (1) Notwithstanding any other provision of this section, a person, other than a company, is resident in New Zealand within the meaning of this Act if that person has a permanent place of abode in New Zealand, whether or not that person also has a permanent place of abode outside New Zealand.

- (2) Where a person other than a company is personally present in New Zealand for a period or periods exceeding in the aggregate 183 days in any period of 12 months, that person is deemed to be resident in New Zealand from the first day within that period of 12 months on which that person was personally present in New Zealand.
- (3) Where a person other than a company is resident in New Zealand and is personally absent from New Zealand for a period or periods exceeding in aggregate 325 days in any period of 12 months, that person is deemed not to be resident in New Zealand from the first day within that period of 12 months on which that person was personally absent from New Zealand and, subject to this section, thereafter.
- (4) For the purposes of this section, where a person, other than a company, is personally present in New Zealand for part of a day, that person is deemed to be personally present in New Zealand for the whole of that day and not to be personally absent from New Zealand for any part of that day.
- (5) Notwithstanding any other provision of this section, a person, other than a company, who is personally absent from New Zealand in the service in any capacity of the Government of New Zealand is deemed to be resident in New Zealand during that absence.

Compare: 1994 No 164 s OE 1

OE 2 Determination of residence of company

- (1) A company is resident in New Zealand within the meaning of this Act if—
 - (a) it is incorporated in New Zealand; or
 - (b) it has its head office in New Zealand; or
 - (c) it has its centre of management in New Zealand; or
 - (d) control of the company by its directors, acting in their capacity as directors, is exercised in New Zealand, whether or not decision-making by directors is confined to New Zealand.
- (2) A company is deemed to be a non-resident company if it is not resident in New Zealand for the purposes of this Act.
- (3) A foreign company is, for the purposes of the definition of **available subscribed capital** and the international tax rules, for any accounting period of that foreign company, deemed to

be resident in a particular country or territory if at any time during that accounting period the company is liable to pay income tax in that country by reason of domicile, residence, place of incorporation, or place of management in that country or territory.

- (4) If, in the case of any company, there are for any accounting period 2 or more countries or territories falling within **subsection (3)** or the company is not resident in any country or territory under **subsection (3)**, the company is for that accounting period regarded as being resident in the country or territory in which, if that country or territory were New Zealand, that company would be treated as being resident by virtue of the application of **subsection (1)**.
- (5) If, in the case of any company and any accounting period, the application of **subsections (3) and (4)** does not result in the treatment of that company as resident for that accounting period in 1 country or territory only, that company is for that accounting period regarded as being resident in the country or territory in which in that accounting period its centre of management is located.
- (6) If, in the case of any company and any accounting period, there is no single country or territory of residence able to be determined by applying **subsections (2) to (5)**, that company is for that accounting period regarded as being resident in such country or territory as the Commissioner determines.

Compare: 1994 No 164 s OE 2

OE 4 Classes of income treated as having source in New Zealand

- (1) Subject to **sections FB 2 and OE 5**, the following classes of income have a source in New Zealand:
 - (a) income derived from any business wholly or partly carried on in New Zealand:
 - (b) income derived from any business carried on out of New Zealand to the extent that that income consists of income of any of the classes referred to in **paragraphs (e), (f), (g), (h), (j), (m), (n), and (r)**:
 - (c) all salaries, wages, allowances, and emoluments of any kind earned in New Zealand in the service of any employer or principal, whether resident in New Zealand or elsewhere:

- (d) payments of compensation or allowances of any of the kinds referred to in any of **paragraphs (a) to (c)** of the definition of **accident compensation payment** in **section CF 1(2)**;
- (e) income derived by any person as the owner of land in New Zealand;
- (f) income derived by any person from any mortgage of land in New Zealand;
- (g) income derived from shares in or membership of a company resident in New Zealand, or from debentures issued by a company resident in New Zealand or by a local or public authority;
- (h) income derived from debentures or other securities issued by the Government of New Zealand;
- (i) any pension or annuity payable by the Government of New Zealand, or out of any superannuation scheme established in New Zealand;
- (j) an ex gratia payment that is a pension within the meaning of the definition of **pension** in **section CF 1(2)**;
- (k) income derived from money invested in the Common Fund of Public Trust or the Maori Trust Office;
- (l) income derived from the sale or other disposition of any property, corporeal or incorporeal, situated in New Zealand;
- (m) interest or a redemption payment, derived from or in respect of money lent in New Zealand:
provided that this paragraph is subject to the application provisions of **subsection (1A)**;
- (n) interest or a redemption payment, derived from or in respect of money lent outside New Zealand to—
 - (i) any person who is resident in New Zealand, except where the money lent is used by the person for the purposes of a business carried on by the person outside New Zealand through a fixed establishment outside New Zealand; or
 - (ii) any person who is not resident in New Zealand if the money lent is used by the person for the purposes of a business carried on by the person in New Zealand through a fixed establishment in New Zealand:
provided that this paragraph is subject to the application provisions of **subsection (1A)**;

- (na) income that, under **section EY 47**, is treated as being derived from New Zealand:
 - (o) a premium that, under **section FC 13**, is treated as being derived from New Zealand:
 - (p) income derived by a beneficiary under any trust, so far as the income of the trust fund is derived from New Zealand:
 - (q) income derived from contracts made or wholly or partly performed in New Zealand:
 - (r) royalties—
 - (i) that are paid by a person who is resident in New Zealand and are not paid in respect of a business carried on by the person outside New Zealand through a fixed establishment outside New Zealand; or
 - (ii) that are paid by a person who is not resident in New Zealand and are allowed as a deduction to the person for the purposes of tax in New Zealand:
 - (s) payments of any kind to the extent to which they are paid as consideration for the use of, or the right to use, in New Zealand, any personal property, being payments—
 - (i) that are paid by a person who is resident in New Zealand; or
 - (ii) that are paid by a person who is not resident in New Zealand and are allowed as a deduction to the person for the purposes of tax in New Zealand:provided that this paragraph does not apply to income which is deemed to be derived from New Zealand by virtue of **paragraph (r)**:
 - (t) income derived from the carriage by sea or by air of merchandise, goods, livestock, mails, or passengers shipped or embarked in New Zealand:
 - (u) income derived directly or indirectly from any other source in New Zealand.
- (1A) **Subsection (1)(m) and (n)** apply to—
- (a) interest derived from money lent under a binding contract entered into on or after 29 July 1983:

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

Compare: 1994 No 164 ss CZ 2, OE 4

OE 5 Commission agency contracts performed out of New Zealand

- (1) The income derived by any commission agent in the performance out of New Zealand of commission agency contracts made or procured in New Zealand is, subject to any apportionment which may be made under this Act in respect of its source out of New Zealand, deemed to be derived by the commission agent from the commission agent’s business carried on in New Zealand.
- (2) In this section,—

commission agency contract means a contract by which any person is authorised to sell out of New Zealand any goods or merchandise on commission or otherwise on behalf of any person resident or carrying on business in New Zealand

commission agent means any person who carries on in New Zealand by himself or herself or by any person on his or her behalf the business of making commission agency contracts in New Zealand or of procuring such contracts to be made with him or her elsewhere.

Compare: 1994 No 164 s OE 5

OE 7 Conduit tax relief holding companies and group members

- (1) A company is a conduit tax relief holding company in respect of a conduit tax relief company in which it holds shares if—
 - (a) it is itself a conduit tax relief company; and
 - (b) a single person not resident in New Zealand has 100% of the direct voting interests in the conduit tax relief holding company (and 100% of the direct market value interests if a direct market value circumstance exists at the relevant time), disregarding a nominal shareholding

- held by a person to comply with company law requirements; and
- (c) the conduit tax relief holding company has a 10% or greater direct voting interest in the conduit tax relief company (and a 10% or greater direct market value interest, if a direct market value circumstance exists at the relevant time); and
 - (d) the conduit tax relief holding company has previously given, and not revoked, a notice to the conduit tax relief company that it is to be a conduit tax relief holding company for the conduit tax relief company.
- (2) Notwithstanding **subsection (1)(b)**, a company is not a conduit tax relief holding company if the single person is a controlled foreign company or the trustee of a non-qualifying trust.
- (3) A company resident in New Zealand is a conduit tax relief group member in respect of a conduit tax relief company in which it holds shares if—
- (a) it is itself a conduit tax relief company; and
 - (b) it has, in the conduit tax relief company,—
 - (i) a 100% direct voting interest; and
 - (ii) a 100% direct market value interest, if a market value circumstance exists at the time in respect of the conduit tax relief company; and
 - (c) 1 or more non-residents have a direct voting interest, or a direct market value interest if a market value circumstance exists at the time in respect of the group member, in either the conduit tax relief group member or in another member of the same wholly-owned group of companies that is resident in New Zealand and that has a 100% voting interest (and, if such a market value circumstance exists, a 100% market value interest) (calculated as if the look-through rules in **sections OD 3(3)(d) and OD 4(3)(d)** did not apply to deem the other member's interests to be held by others) in the conduit tax relief company.
- (4) For the purposes of **subsection (3)(b) and (c)**, a nominal shareholding held by a person solely to comply with company law requirements is disregarded.
- (5) For the purposes of **subsection (3)(c)**, a non-resident is nevertheless resident in New Zealand if the person is—

- (a) associated with the company or the conduit tax relief company; and
- (b) a controlled foreign company or the trustee of a non-qualifying trust.

Compare: 1994 No 164 s OE 7

OE 8 Residence of conduit tax relief company shareholders

- (1) The rules in this section apply only for the purposes of applying the conduit tax relief provisions in **sections KH 2, LG 1(1) and (4), MG 6(2), MI 5(1)(e) and (4), MI 7(1), MZ 4(1), NH 7, and OE 7(1)(b) and (3)(c)**.
- (2) A non-resident is nevertheless resident in New Zealand if the person is—
 - (a) associated with the conduit tax relief company; and
 - (b) a controlled foreign company or the trustee of a non-qualifying trust.
- (3) A company resident in New Zealand holding shares in a conduit tax relief company is not resident in New Zealand if it is—
 - (a) a conduit tax relief holding company in respect of the conduit tax relief company; or
 - (b) a conduit tax relief group member in respect of the conduit tax relief company, but only to the extent described in **subsection (4)**.
- (4) A conduit tax relief group member is not resident in New Zealand for the percentage of its direct voting interest, direct market value interest, and entitlement to derive dividends that is equal to the total percentage of direct voting interests (or direct market value interests if market value circumstances exist) referred to in **section OE 7(3)(c)**.

Compare: 1994 No 164 s OE 8

Subpart OF—References to balance dates and years

OF 1 References to balance dates and years generally

- (1) In this Act, a reference to a tax year that is identified by means of a reference to 2 years is a reference to the tax year that—
 - (a) starts on 1 April in the earlier of those 2 years; and
 - (b) ends on 31 March in the later of those 2 years.

- (1A) In this Act, a reference to an income year that is identified by means of a reference to 2 years is a reference to the corresponding income year for the tax year that a reference to the same 2 years would identify.
- (1B) For the purposes of **subsections (1) and (1A)**, the reference to “2 years” means 2 years referred to in a full form or 2 years referred to in a shortened form.
- (2) In this Act, unless the context otherwise requires,—
- (a) references to persons with—
 - (i) a standard balance date; or
 - (ii) a standard accounting year—are references to persons who furnish a return of income under section 33 of the Tax Administration Act 1994 for a tax year ending on 31 March, being the tax year that is the tax year in respect of which the reference is made:
 - (b) references to persons with—
 - (i) a non-standard balance date; or
 - (ii) a non-standard accounting year; or
 - (iii) a non-standard income year—are references to persons who furnish a return of income under section 38 of the Tax Administration Act 1994 for an accounting year ending with an annual balance date other than 31 March, being, unless the context otherwise requires, the accounting year that corresponds to the tax year in respect of which the reference is made:
 - (c) references to persons with—
 - (i) an early balance date—are references to persons who furnish a return of income under section 38 of the Tax Administration Act 1994 for an accounting year ending with an annual balance date that falls between 1 October and the following 30 March (both days inclusive), being, unless the context otherwise requires, the accounting year that corresponds to the tax year in respect of which the reference is made:
 - (d) references to persons with—
 - (i) a late balance date—are references to persons who furnish a return of income under section 38 of the Tax Administration Act 1994

for an accounting year ending with an annual balance date that falls between 1 April and the following 30 September (both days inclusive), being, unless the context otherwise requires, the accounting year that corresponds to the tax year in respect of which the reference is made.

Compare: 1994 No 164 s OF 1

OF 2 References to years in particular provisions

- (3) Where a trustee is a person with a non-standard income year, and any amount derived by that trustee in that income year is also beneficiary income under the trust during the same income year, the beneficiary is deemed to have derived that beneficiary income under the trust during the same tax year as that which corresponds to the trustee's income year.
- (5) For the purposes of **section 1G 2**, every reference to a year of offset, a preceding loss year, or a tax year of a company includes a reference to any non-standard accounting year that corresponds with the year of offset, preceding loss year, or tax year.

Compare: 1994 No 164 s OF 2

Part Y

Repeals, amendments, and savings

Index

YA 1	Repeals
YA 2	Consequential amendments to other enactments
YA 3	Transitional provisions
YA 4	Saving of binding rulings
YA 5	Saving of accrual determinations
YA 6	Comparative tables of old and new provisions

YA 1 Repeals**Schedule 20**

- (1) The enactments specified in **schedule 20** (Enactments repealed) are repealed.

Repeals effective only for 2004–05 tax year and later

- (2) However, except when the context requires otherwise, the repeals in **schedule 20** (Enactments repealed) apply only—
- (a) with respect to the tax on income derived in the 2004–05 tax year and later tax years, in the case of a person whose income year is the same as the tax year; and
 - (b) with respect to the tax on income derived in the corresponding income years, in the case of a person whose income year is not the same as the tax year.

Defined: corresponding income year, derived, income, income year, tax, tax year

Compare: 1994 No 164 s YB 3

YA 2 Consequential amendments to other enactments

The enactments specified in **schedules 21** (Enactments amended) **and 22** (Amendments to Tax Administration Act 1994) are amended in the manner indicated in the schedule.

Compare: 1994 No 164 s YB 1

YA 3 Transitional provisions

Reference to this Act can include earlier Act

- (1) A reference in an enactment or document to this Act, or to a provision of it, is to be interpreted as a reference to the Income Tax Act 1994 (or to the Income Tax Act 1976), or to the corresponding provision of the earlier Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

Reference to earlier Act can include this Act

- (2) A reference in an enactment or document to the Income Tax Act 1994 (or to the Income Tax Act 1976), or to a provision of that earlier Act, is to be interpreted as a reference to this Act, or to the corresponding provision in this Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

Compare: 1994 No 164 s YB 5(4), (5)

YA 4 Saving of binding rulings

When, and extent to which, this section applies

- (1) This section applies when, and to the extent to which,—
- (a) either—
 - (i) an applicant has applied for a private ruling, a product ruling, or a status ruling before 1 April 2004 on an arrangement that is entered into, or that the applicant seriously contemplates will be entered into, before the commencement of this Act; or
 - (ii) a public ruling is issued before 1 April 2004; and
 - (b) the binding ruling is about a taxation law (**old law**) that is repealed by **section YA 1**; and
 - (c) a new taxation law (**new law**) that corresponds to the old law comes into force at the commencement of this Act; and
 - (d) if this section did not exist, the commencement of this Act would mean that the binding ruling would cease to apply because of section 91G of the Tax Administration Act 1994.

Ruling about new law

- (2) The binding ruling is treated as if it were made about the new law, so that the effect of the ruling at the commencement of this Act is the same as its effect before the commencement.

No confirmation rulings

- (3) To the extent to which a binding ruling continued by **subsection (2)** applies to an arrangement, or to a person and an arrangement, the Commissioner must not make a binding ruling on how the new law applies to the arrangement or to the person and the arrangement.

Defined: arrangement, binding ruling, commencement of this Act, Commissioner, taxation law

YA 5 Saving of accrual determinations

When this section applies

- (1) This section applies when—
- (a) a determination has been made before 1 April 2004 under—
 - (i) section 90 or 90AC of the Tax Administration Act 1994; or
 - (ii) section 64E of the Income Tax Act 1976; and
 - (b) the determination has not been rescinded before 1 April 2004; and
 - (c) the determination is about—
 - (i) the application of a taxation law (**old law**) that is repealed by **section YA 1**; or
 - (ii) the application of a taxation law in the Income Tax Act 1976 that preceded and corresponded to the old law; and
 - (d) a new taxation law (**new law**) that corresponds to the old law comes into force at the commencement of this Act; and
 - (e) if this section did not exist, the commencement of this Act would mean that the determination would cease to apply because the taxation law to which it applied had ceased to exist.

Determination about new law

- (2) The determination is treated as if it were made about the new law, so that the effect of the determination at the commencement of this Act is the same as its effect before the commencement.

No confirmation determinations

- (3) To the extent to which a determination continued by **subsection (2)** applies, the Commissioner must not make a determination on how the new law applies.

Defined: commencement of this Act, taxation law

YA 6 Comparative tables of old and new provisions

Schedule 23

- (1) **Schedule 23** (Comparative tables of old and new provisions) sets out corresponding provisions in the Income Tax Act 1994, the Tax Administration Act 1994, and this Act at the commencement of this Act.

Parts of schedule

- (2) The schedule has the following 3 parts:
- (a) **part A** lists each provision in the Income Tax Act 1994 and—
 - (i) indicates the corresponding provision in this Act; or
 - (ii) indicates the corresponding provision in the Tax Administration Act 1994; or
 - (iii) states that the provision has been omitted:
 - (b) **part B** lists each provision in this Act and—
 - (i) indicates the corresponding provision in the Income Tax Act 1994; or
 - (ii) states that the provision is new:
 - (c) **part C** lists the provisions that this Act inserts in the Tax Administration Act 1994 and—
 - (i) indicates the corresponding provision in the Income Tax Act 1994; or
 - (ii) states that the provision is new.

Purpose of schedule

- (3) The schedule is provided to assist readers to identify corresponding provisions but must not be interpreted as a definitive guide to the correspondence of provisions.

Compare: 1994 No 164 s YB 6
