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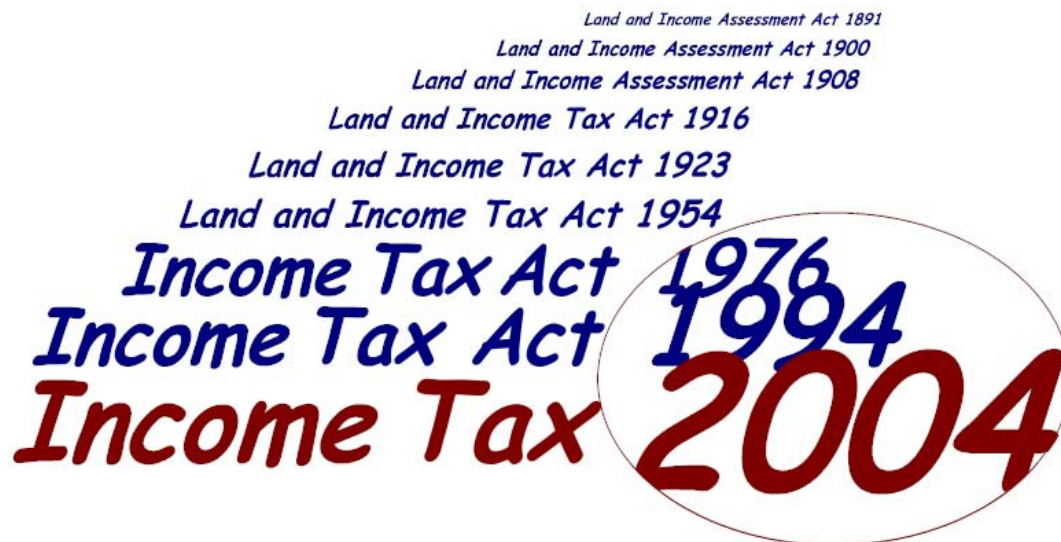
# Rewriting the Income Tax Act

## Exposure Draft

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### Part K and Part L

*Land and Income Assessment Act 1891*  
*Land and Income Assessment Act 1900*  
*Land and Income Assessment Act 1908*  
*Land and Income Tax Act 1916*  
*Land and Income Tax Act 1923*  
*Land and Income Tax Act 1954*  
*Income Tax Act 1976*  
*Income Tax Act 1994*  
*Income Tax 2004*



Rewrite Project Team

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Rewriting the Income Tax Act: Exposure Draft – Part K and Part L  
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## Introduction

This exposure draft has been prepared by the project team responsible for rewriting New Zealand's income tax legislation. It contains draft legislation for the rewrite of Parts K and L the Income Tax Act 2004, which relate to rebates of income tax and tax credits that are used in satisfying a person's income tax liability for a tax year.

The key objective of rewriting the Act is to produce tax legislation that is clear, uses plain language and is structurally consistent. This should make it easier for taxpayers to identify and comply with their income tax obligations, and ultimately save them time and money.

We are rewriting the law as it currently stands. Changes to the law, other than minor ones in the interests of clarity or simplicity, will continue to be handled through the normal legislative programme. Cross-references to sections outside Parts K and L are to provisions within the Income Tax Act 2004. The presence or absence of provisions in the rewritten draft legislation does not necessarily indicate any future change in tax policy.

We invite submissions on any aspect of this work, including the points raised in this commentary. The closing date for submissions is 17 March 2006. Submissions should be made to:

The Rewrite Project  
Policy Advice Division  
Inland Revenue Department  
PO Box 2198  
WELLINGTON

Electronic submissions should be sent to: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz).

Please note submissions may be the subject of a request under the Official Information Act 1982. The withholding of particular submissions on the grounds of privacy, or for any other reason, will be determined in accordance with the Act. If you feel any part of your submission could be properly withheld under the Act (for example, for reasons of privacy), please indicate this clearly in your submission.

# COMMENTARY ON REWRITTEN PART K AND PART L OF THE INCOME TAX ACT 2004

## Introduction

This commentary deals with the rewrite of Parts K and L as the two parts contain rules that have a similar effect for a person determining their terminal tax for a tax year.

Part K in the 2004 Act contains a range of rules that give a tax credit for a variety of rebates, including the entitlement to and delivery of family support and family plus. The rewritten Part K contains only the rules relating to the entitlements under what is referred to in the draft legislation as the family income assistance scheme. The retention of these rules within Part K is considered appropriate because they mostly relate to the delivery of family income assistance scheme tax credits on an interim basis during a tax year. Under the rewritten Part L, a person who has received these credits during a tax year includes the total amount of their credits in the assessment of their income tax liability and terminal tax for that year.

The rewritten Part L contains all other tax credit rules. It has been expanded to include rebates that were located in Part K, other than for the family income assistance scheme, and also the core tax credit rules that are currently situated in sections BC 8, BC 9 and BC 10 of the 2004 Act.

This commentary outlines the main drafting changes made in rewriting Part K and Part L. These drafting changes relate mainly to structural relationships, are relatively minor, and are intended to improve the legislation. They fall into three main types:

- modernising the style and language;
- improving the clarity of the law; and
- removing redundant material and moving some provisions to other parts of the Act.

A number of provisions within Part K that have the same outcome have been rationalised and moved to draft section LA 6. This draft rule merges the effect of several provisions that require the Commissioner of Inland Revenue to apply unused tax credits against unsatisfied income tax obligations in tax years other than the year in which the tax credit arises.

One minor policy clarification is being made for the rewrite of Part L.

Under the 2004 Act, there is an inconsistent approach taken to the time at which tax credits arise and the tax year in which those tax credits are used to satisfy an obligation under the Act, particularly in a business context.

In the rewritten Part L, the time at which a person becomes entitled to a tax credit is, in general, related to the income year in which the underlying income or tax payment is made. A person can use their entitlement to a tax credit in satisfying an income tax liability for the tax year that corresponds to the income year in which the entitlement to the tax credit arises. However, this clarification will not apply to credits of tax that arise under subpart KB or KD of the 2004 Act as these credits can only arise and be used in relation to a tax year.

Some provisions in Part L determine the amount of a tax credit attached to a payment of a dividend or a Maori authority distribution. These rules will be included in the rewrite of Part M and so are not included in the exposure draft for Part L.

## **Benefits of the proposed structure**

Although current readers may be familiar with the concepts contained in Parts K and L, the rewriting of these two Parts must also take into account the needs of future readers.

Future readers will come to the legislation without knowledge of how the various rules in Parts K and L interact with the core provisions and other Parts of the Act. In identifying these interrelationships, the draft legislation helps readers understand the relationship between provisions in other Parts of the Act and the transactions and situations dealt with in Parts K and L.

The ordering of the subparts and provisions in the subparts reflects the drafting policy that more generally applicable provisions should appear earliest in each Part.

Cross-references in this exposure draft to Parts outside Parts K and L relate to the 2004 Act, not to the recently released exposure drafts of other rewritten Parts. This is because further intensive specialist reviews of these exposure drafts are planned and may lead to changes to these draft provisions.

## **Specific feedback**

There are no specific questions raised on any of the rewritten provisions. Comment on any of the drafting clarifications is welcomed.

## **Relationship of Parts K and L to other Parts**

The main relationship between Part K and the rest of the Act is that the tax credit a person is entitled to for family income assistance is taken account of in draft subpart LA.

The rewritten Part L links to the core provisions through draft subpart LA, which contains the rules under which a person can use a tax credit arising in a tax year in satisfying their income tax liability. To achieve this outcome, the substantive tax credit rules in sections BC 8, BC 9, and BC 10 have been relocated to draft subpart LA. Credits that arise through sections in other Parts of the Act – for example, provisional tax and resident withholding tax – will also contain a link to the specific rules in Part L.

The core provisions in subpart BC will be reviewed after releasing the exposure draft on rewritten Part O, to ensure that all links between the core provisions and the rewritten Parts F to O are properly reflected.

Comment is invited on the advantages and disadvantages of providing general linking provisions within the rewritten Part L to the relevant provisions in other Parts of the Act.

### **Moving 2004 Act Part K provisions to Part L**

Apart from subpart KD, all provisions in Part K have been relocated to the rewritten Part L.

### **Moving 2004 Act provisions to subpart LZ**

Sections LF 6(1) and LF 6(3) have been moved to draft section LZ 1.

Section KE 1 has been moved to draft sections LZ 6, LZ 7, and LZ 8.

Section KG 1 has been moved to draft section LZ 9, LZ 10, LZ 11, and LZ 12.