

Taxation (Consequential Rate Alignment and Remedial Matters) Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Consequential Rate Alignment and Remedial Matters) Bill and recommends that it be passed with the amendments shown.

Introduction

The Taxation (Consequential Rate Alignment and Remedial Matters) Bill primarily seeks to align certain investment tax rates and the related income thresholds with the new individual and company tax rate structure. The new withholding tax rates on interest income are therefore proposed to be 12.5 percent, 21 percent, 30 percent, 33 percent, and 38 percent.

The bill proposes to increase the default rate of resident withholding tax (RWT) on accounts opened on or after 1 April 2010. This applies when an individual does not choose an RWT rate with his or

her financial institution, ranging from 19.5 percent to 38 percent, the highest income tax rate.

The bill as introduced also provides that taxpayers with existing accounts at 21 percent (from 1 April 2010) would have their RWT rate changed to the default rate of 38 percent from 1 April 2011, unless they confirmed their correct rates with their financial institutions before 1 April 2011. The committee considered this proposal closely, and we recommend amendments based on these considerations.

The bill also introduces a new 12.5 percent withholding tax rate for secondary income where the taxpayer concerned expects to earn less than \$14,000 per annum. The tax rates for portfolio investment entities, retirement scheme contribution tax rates, and the withholding tax rates for extra pays are aligned with the new personal tax rates.

The bill introduces other policy and remedial amendments to the Income Tax Act 2007, the Income Tax Act 2004, the Goods and Services Tax Act 1985, the Tax Administration Act 1994, the Income Tax Act 1994, and the Maori Trustee Amendment Act 2009. For example, the bill eases the requirement for the Commissioner of Inland Revenue to issue personal tax summaries, allowing the Inland Revenue Department to select more effectively the taxpayers to whom such summaries should be issued. The bill also proposes that the Commissioner's decision to require payment of tax in dispute under section 138I(2B) of the Tax Administration Act 1994 should not be open to challenge.

Technical amendments and focus of our commentary

The bill proposes a raft of technical amendments, on which we make no comment in this report. We understand that tax practitioners and the Inland Revenue Department frequently propose such amendments as they recognise the need for them in the course of using tax legislation.

This commentary sets out only the key amendments we propose and addresses the main issues that we considered. It does not cover minor or technical amendments.

We accept that the new default RWT rate of 21 percent is the rate most likely to ensure that the highest proportion of individuals are taxed at the correct rate. We recognise that there is the potential for the over-taxation of a significant number of taxpayers. We acknow-

ledge this issue, but also took advice on the fiscal cost of lowering the default rate from 19.5 to 12.5 percent, which is estimated by the Inland Revenue Department to be in excess of \$40 million per annum. We have concerns that some tax-payers may be subject to over-taxation. As a consequence, we endorse the assurance from the Inland Revenue Department that it will provide a comprehensive public education programme informing taxpayers of their rights, and urging them to contact their banks so as to ensure that they are taxed at the appropriate rate.

The Inland Revenue Department has assured us that planning and budgeting for such a campaign, in conjunction with major financial institutions, is under way. We would be interested in obtaining data on the effectiveness of that campaign and the number of affected taxpayers.

Some of us have concerns that the majority of those who are over-taxed are among the most vulnerable in our communities, and can least afford to be over-taxed.

Default RWT rate

We recommend removing proposed new section RE12(6) (inserted by clause 45) so that the default rate for existing bank accounts would not be changed to 38 percent from 1 April 2011. We note that more than 90 percent of taxpayers are currently on a marginal tax rate of less than 38 percent. We are concerned that, if the default rate for existing bank accounts were shifted to 38 percent as proposed, many taxpayers who have a lower marginal tax rate (that is, 12.5 percent, 21 percent, or 33 percent), might be over-taxed because they did not know that they would be entitled to RWT rates lower than 38 percent. This might have the inequitable result that some low-income earners would be taxed at the same RWT rate as taxpayers in the highest income bracket. Furthermore, shifting the default rate for existing bank accounts to 38 percent would impose significant administrative costs on the banks and the Inland Revenue Department, as banks would have to notify their customers of the new default rate, and the department would have to issue extra personal tax summaries.

Instead of changing the default rate for existing bank accounts to 38 percent, we recommend inserting new clause 59B to provide that where the Inland Revenue Department determines that individuals

are on an RWT rate inconsistent with their marginal tax rate, it may instruct interest payers to shift those individuals to the appropriate RWT rate. We note that the department already uses a similar approach to PAYE tax codes, where it may instruct an employer to use a particular PAYE tax code for an individual.

On the other hand, we recommend that the default rate for new bank accounts opened from 1 April 2010 be 38 percent, as drafted (clause 51). We consider that, if the default rate for new bank accounts were set at the highest tax rate (38 percent), taxpayers would have an incentive to select the appropriate RWT rate for their marginal tax rate when they opened new bank accounts.

Electing RWT rates

We recommend that a person who is moved to a higher RWT rate on the instruction of the Inland Revenue Department to their interest payer be allowed to elect another RWT rate subsequently. We recognise that this may be necessary, as the department may not have information on all the taxpayer's income sources, and their taxable income may vary significantly from one year to another. However, we note that anyone who chooses to return to a lower RWT rate inappropriately may be returned to the proper RWT rate for their marginal tax rate if the department recognises the discrepancy.

We consider it vital that taxpayers have the opportunity to elect the correct RWT rates and so are neither under-taxed nor over-taxed. We are concerned that some taxpayers, particularly those in the lower income brackets, might not have any basic knowledge of the RWT rates. In addition to endorsing the Inland Revenue Department's publicity campaign, we also encourage banks and other financial institutions to provide their customers with information setting out the procedure of how to correctly determine their RWT rate and adjust it accordingly.

Issues not leading to amendments

We believe that several policy issues discussed during the hearing of evidence and consideration are noteworthy, although they did not result in any recommended amendments to the bill.

Personal tax summaries

We support the proposal to give the Commissioner of Inland Revenue discretion to determine who should receive an income statement (commonly known as a personal tax summary) automatically (clauses 62 to 64). We consider that this would allow the department to reduce its administrative costs; otherwise the Inland Revenue Department would remain obliged to issue such summaries to some taxpayers unnecessarily, when the correct amount of tax is likely to have been withheld.

We are aware of concern that some taxpayers might not receive tax refunds to which they would otherwise be entitled. However, we were assured by the Inland Revenue Department that a taxpayer could still request a personal tax summary in order to establish entitlement to a tax refund.

To help taxpayers claim any tax refunds to which they are entitled, we encourage the department to publicise information on how to obtain a summary of earnings and personal tax summaries. We also encourage the department to alert taxpayers with student loan obligations to the possibility of using any tax refund to offset these obligations.

Income for portfolio investment entities (PIEs)

We noted submissions that PIE income should be subject to the same marginal tax rates as ordinary income, and, in particular, should not be capped at 30 percent. We also noted submissions that PIE income should be taken into account for the purpose of determining entitlements to State-provided benefits or related obligations.

We consider these submissions to be outside the ambit of this bill because it does not aim to introduce substantive policy changes. However, we encourage the Inland Revenue Department to look into the issues raised in these submissions, to determine whether they will need to be addressed in the future.

Tax in dispute

We support the proposal that a decision by the Commissioner of Inland Revenue to require payment of tax in dispute under section 138I(2B) of the Tax Administration Act 1994 should not be challengeable (clause 67). The Commissioner can require payment of tax in dispute only where there is a significant risk that the tax will

not be paid if an objection is not successful. In practice, the Commissioner exercises this power only in exceptional circumstances, for example when he or she considers there is a risk of flight. The proposed amendment would not enlarge the Commissioner's powers in this respect.

We note that if the Commissioner's decision to require payment of tax in dispute under section 138I(2B) of the Tax Administration Act 1994 were challengeable, the disputant, while challenging the decision, might undertake the very behaviour the decision sought to prevent, such as fleeing New Zealand. This might undermine the Commissioner's ability to manage the risk of non-payment. We therefore consider the proposal in clause 67 to be justified.

We note that the amendment would remove only the right to challenge the Commissioner's decision to make payment not disputable. Taxpayers would retain full rights to challenge the tax issue underlying any such dispute.

Compliance costs of the RWT regime

We noted concern that the RWT regime creates difficulties for casual payers of interest and dividends, and imposes compliance costs on small businesses. While we agree with the Inland Revenue Department that there is not enough time to address this concern in the context of this bill, we encourage the department to consider this matter further and address it as soon as possible.

Electronic communication

We noted the call for electronic communication between the Inland Revenue Department and taxpayers. We were told by the department that part of its Transform Inland Revenue project involves removing legislative and operational barriers to communicating electronically with taxpayers. In particular, the department is considering

- how taxpayers will be notified that they will receive electronic communication from the department
- how the department will obtain taxpayers' correct email addresses
- what information and documents will be communicated electronically

- whether and in what form guidelines on electronic communications between the department and taxpayers will be published.

We note that clause 57 would allow the Commissioner of Inland Revenue to communicate with taxpayers electronically unless there were reasonable grounds to suppose that the notice would not be received by the addressee. We noted the concern that this provision could encourage the Inland Revenue Department to become indifferent to whether emails were sent to the correct email addresses of the intended recipients. We will monitor closely developments in electronic communication between the department and taxpayers.

Comprehensiveness of explanatory note

We consider that some of the changes introduced by the bill, particularly remedial or technical changes, could have been explained further in the bill's explanatory note. We acknowledge that the Inland Revenue Department usually publishes an associated commentary upon the introduction of each tax bill, which is accessible through the Inland Revenue Department website; but nevertheless we emphasise the importance of clear, comprehensive explanatory notes. We also note that some submitters suggested that the department's commentary associated with this bill needed more detail in some areas. We encourage the Inland Revenue Department to attend to the issue we have raised here when it prepares explanatory notes for future bills.

Appendix

Committee process

The Taxation (Consequential Rate Alignment and Remedial Matters) Bill was referred to us on 28 July 2009. The closing date for submissions was 25 August 2009. We received and considered 12 submissions, and heard five from interested groups and individuals.

We received advice from the Inland Revenue Department, our independent specialist adviser on tax issues, Therese Turner (Chartered Accountant), and our independent specialist adviser on legislative drafting, George Tanner QC.

Committee membership

Craig Foss (Chairperson)

Amy Adams

David Bennett

John Boscawen

Brendon Burns

Charles Chauvel (from 14 October 2009)

Hon David Cunliffe

Aaron Gilmore

Raymond Huo (until 14 October 2009)

Rahui Katene

Peseta Sam Lotu-Iiga

Stuart Nash

Dr Russel Norman

**Taxation (Consequential Rate Alignment
and Remedial Matters) Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Peter Dunne

Taxation (Consequential Rate Alignment and Remedial Matters) Bill

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Schedule 2
Consequential amendments to lists of defined terms in
Income Tax Act 2004

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Consequential Rate Alignment and Remedial Matters) Act **2009**.

2 Commencement

- (1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in this section. 5
- (2) **Section 84** is treated as coming into force on 1 April 1995.
- (3) **Sections 73, 73B, 73C, 74, 75, 77, 78, 79, 80, 81, 82(2), (4), (5), (6), (6B), and (7), and 83, and schedule 2, rows 1, and 2 to 12** are treated as coming into force on 1 April 2005. 10
- (3B) **Section 82(2B)** is treated as coming into force on 1 July 2007.
- (4) ~~Section 41 is treated as coming into force on 1 October 2007.~~
- (4) **Section 79B and schedule 2, row 1B** are treated as coming into force on 1 October 2007. 15
- (5) **Section 76** is treated as coming into force on 19 December 2007.
- (5B) **Section 82(3B)** is treated as coming into force on 25 February 2008.
- (5C) **Section 77B** is treated as coming into force on 4 March 2008. 20
- (6) **Sections 4, 5, 6, 7, 8, 9, 10, 10B, 11, 11B, 11C, 11D, 11F, 12, 13, 14, 14D, 15, 15J, 16, 17, 19, 19B, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 29B, 30, 30B, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 40B, 40C, 40D, 40E, 40F, 40G, 40H, 40I, 40J, 40K, 40L, 40M, 40N, 40O, 41B, 43(1A), 43B, 43C, 44, 46, 47, 47B, 47C, 47D, 48, 49(2) to (9) 49(2), (2B), (3B), (3E), (4), (4B), (5), (5B), (5C), (6), (7), (8), (9), (9B), (11), (12B), (12C), (12E), (13), (13B), and (14), 50, 51(1), 52(1A), 53, 54 (other than schedule 4, row 17),** 25

- 62B, and 65, and schedule 1, rows 1 to 15, 16, 18, 18B, and 19 to 34** are treated as coming into force on 1 April 2008.
- (7) **Sections 11E, 14E, 18, and 54 (schedule 4, row 47) and schedule 1, row 17** are treated as coming into force on 1 April 2009. 5
- (7B) **Sections 13B, 13C, 13D, 14B, 14C, and schedule 1, row 15B** are treated as coming into force on 30 June 2009.
- (8) **Sections 71 and 85** are treated as coming into force on 1 July 2009.
- (8B) **Sections 86 and 87** are treated as coming into force on 7 October 2009. 10
- (8C) **Sections 37B, 37C, and 37D** come into force on 7 January 2010.
- (9) **Sections 6B, 6C, 12, 13, 15I, 19C, 19D, 19E, 19F, 19G, 19H, 19I, 37E, 42, 43(1), 45, 45B, 49(3C), (9C), (10), (10B), and (12), and (14C), 49B, 51(2), (4), (4B), and (5), 52(1) and (2), 52B, 58, 59, 59B, 60, 61, and 62(1A), (1AB), (1AC), (1AD), (1AE), (1AF), and (1), and schedule 1, rows 18C to 18E** come into force on 1 April 2010. 15
- (9B) **Sections 15B, 15C, 15D, 15E, 15F, 15G, 15H, 49(3D), (9D), (12D), and (14B), and schedule 1, row 15C** come into force on 1 July 2010. 20
- (10) **Section 51(3)** comes into force on 1 April 2011.

Part 1

Amendments to Income Tax Act 2007

- 3 **Income Tax Act 2007** 25
Sections 4 to 54 amend the Income Tax Act 2007.
- 4 **Flowchart B2: Calculating and satisfying income tax liabilities**
In flowchart B2: Calculating and satisfying income tax liabilities, “Part 1” is replaced by “Part I”. 30
- 5 **Available capital distribution amount**
In section CD 44(11), “subsection (12)” is replaced by “subsections (7)(c) and (12)”. 30

- 6 Benefits, pensions, compensation, and government grants**
In section CF 1(2)(a) and (b), “or refunded to, to” is replaced by “or refunded to,” in each place where it appears.
- 6B Attributed income of certain investors in multi-rate PIEs**
- (1) In section CX 56(2)(b), “an investor rate of 19.5% under section HM 58 (Optional investor rates for trustees: 30%, 19.5%)” is replaced by “a prescribed investor rate referred to in **schedule 6, table 1, row 5 or 7** (Prescribed rates: PIE investments and retirement scheme contributions), as applicable”. 5
10
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2010.
- 6C Available capital distribution amount: 1988 to 2010**
- (1) After section CZ 9B(5), the following is added:
“*Relationship with section CD 44*” 15
- (6) Section CD 44(7)(c) (Available capital distribution amount) overrides this section.”
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 7 Goods and services tax** 20
In section DB 2(2), “section 21 or 21I(1) to 21I(3)” is replaced by “section 21 or 21I(1) to (3)”.
- 8 Research or development**
- (1) Section DB 34(2), other than the heading, is replaced by the following: 25
- “(2) Subsection (1) applies to a person who recognises the expenditure as an expense for financial reporting purposes—
“(a) under paragraph 5.1 or 5.2 of the old reporting standard or because paragraph 5.4 of that standard applies; or
“(b) under paragraph 68(a) of the new reporting standard 30
applying, for the purposes of that paragraph, paragraphs 54 to ~~57~~ 67 of that standard.”
- (2) Section DB 34(4)(b) is replaced by the following:

- “(b) would be required, if the expenditure were material, to recognise it for financial reporting purposes—
- “(i) under paragraph 5.1 or 5.2 of the old reporting standard or because paragraph 5.4 of that standard applies; or 5
- “(ii) under paragraph 68(a) of the new reporting standard applying, for the purposes of that paragraph, paragraphs 54 to ~~57~~ 67 of that standard.”
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 10
- 9 Some definitions**
- In section DB 35(1), the definition of **reporting standard** is replaced by the following:
- “**new reporting standard** means the New Zealand Equivalent to International Accounting Standard 38, approved by the Accounting Standards Review Board, and as amended from time to time or an equivalent standard issued in its place 15
- “**old reporting standard** means Financial Reporting Standard No 13 1995 (Accounting for Research and Development Activities) being the standard approved under the Financial Reporting Act 1993, or an equivalent standard issued in its place, that applies in the tax year in which the expenditure is incurred”. 20
- 10 Criteria for approval of share purchase schemes: when period of restriction ends** 25
- In section DC 14(4), “other than one described” is replaced by “other than † a reason described”.
- 10B Cost of acquiring timber or right to take timber: other cases**
- (1) In section DP 10(5), “acquired the timber of the total of” is replaced by “acquired the timber for the total of”. 30
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

11 Section DP 11 replaced

(1) Section DP 11 is replaced by the following:

“DP 11 Expenditure related to disposal Cost of timber

“When this section applies

“(1) This section applies at the time of disposal of timber when— 5

“(a) ~~section CB 24 or CB 25 (which relate to the disposal of timber) applies to a person; and~~

“(b) ~~the person—~~

“(i) ~~has incurred actual expenditure related to the disposal of the timber; or~~ 10

“(ii) ~~has an existing liability in relation to the expenditure; and~~

“(c) ~~no other provision of this Act allows a deduction for the expenditure.~~

“When this section applies 15

“(1) This section applies when a person—

“(a) derives an amount on the disposal of timber and the amount is income of the person under section CB 24 (Disposal of timber or right to take timber) or CB 25 (Disposal of land with standing timber); and 20

“(b) has incurred expenditure in relation to the timber that is a cost of timber.

“Deduction

“(2) The person is allowed a deduction for ~~the amount of the expenditure incurred~~ the amount that is a cost of timber. 25

“Timing of deduction

“(3) The deduction is allocated—

“(a) for timber harvested from the land before the time of disposal, to the income year in which the timber first becomes trading stock of the person; or 30

“(b) otherwise, by section EA 2 (Other revenue account property).

“Relationship with section DB 46

“(4) This section does not apply to expenditure to which section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant) applies. 35

- “Meaning of timber*
- “(5) In this section, **timber** includes—
- “(a) the creation or grant of a right to take timber:
 - “(b) the grant of a licence or an easement in relation to timber: 5
 - “(c) 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 in relation to establishing, maintaining, and harvesting timber.
- “Link with subpart DA* 10
- “(6) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply.
“Defined in this Act: amount, capital limitation, cost of timber, deduction, dispose, general permission, income year, timber, trading stock”.
- (2) **Subsection (1)** applies for the 2008–09 and later income 15
years.
- 11B Acquiring film rights**
- (1) Section DS 1(2), other than the heading, is replaced by the following:
- “(2) This section does not apply to expenditure that a person incurs in acquiring a film right if— 20
- “(a) the person operates a television station, a television network, or a cable television system, and the film right is acquired mainly to enable the film to be broadcast in New Zealand; or 25
 - “(b) the film is intended to be shown as an advertisement; or
 - “(c) the expenditure is film production expenditure; or
 - “(d) section DS 2B applies to the expenditure.”
- (2) **Subsection (1)** applies for the 2008–09 and later income 30
years.
- 11C Mining exploration expenditure or mining development expenditure on acquisition of asset**
- (1) In section DU 2(2)(a), “other than one described” is replaced by “other than a case described”.
- (2) **Subsection (1)** applies for the 2008–09 and later income 35
years.

11D Meaning of income from forestry

(1) Section EH 34(1), other than the heading, is replaced by the following:

“(1) **Income from forestry—**

“(a) means income derived from either or both of the sales described in subsection (2) in the circumstances described in subsection (3): 5

“(b) includes PFSI forestry income.”

(2) **Subsection (1) applies for the 2008–09 and later income years.** 10

11E Determination alternatives

(1) In section EW 15E(2)(e), “paragraphs (a) to (d)” is replaced by “paragraphs (aa) to (d)” in each place where it appears.

(2) **Subsection (1) applies for the 2009–10 and later income years.** 15

11F Consistency of use of IFRS method

In section EW 25B(3), the last sentence is replaced by the following:

“However, those sections do not apply if the change—

“(a) is from the fair value method; and 20

“(b) relates to a financial arrangement that is not subject to a creditor workout.”

12 Consideration when debt sold at discount to associate of debtor

In section EW 43(1), “under the 1988 version provisions” is omitted. 25

13 Income and deduction when debt sold at discount to associate of debtor

In section EW 49(1), “under the 1988 version provisions” is omitted. 30

13B Attributable CFC amount

(1) In section EX 20B(4), the subsection heading is replaced by “Arrangement”.

- (2) In section EX 20B(4)(b)(iii), “to the extent that the income” is replaced by “to the extent to which the income”.
- (3) Section EX 20B(11)(b) is replaced by the following:
 - “(b) the CFC is a network operator under the Telecommunications (Interception Capability) Act 2004 (a **network operator**), or—
 - “(i) a group of persons has, for the whole of the CFC’s accounting period, voting interests and, if a market circumstance exists, market value interests, of more than 50% in the CFC; and
 - “(ii) the group of persons also has, for the whole of the CFC’s accounting period, voting interests and, if a market value circumstance exists, market value interests, of more than 50% in a network operator; and”.
- (4) **Subsections (1) to (3)** apply for all income years beginning on or after 1 July 2009.

13C Net attributable CFC income or loss

- (1) In section EX 20C(6)(c)(ii), “**arrangement income**” is replaced by “**arrangement**”.
- (2) **Subsection (1)** applies for all income years beginning on or after 1 July 2009.

13D Adjustment of fraction for excessively debt funded CFC

- (1) In section EX 20D(7)(b)(ii), “**arrangement income**” is replaced by “**arrangement**”.
- (2) **Subsection (1)** applies for all income years beginning on or after 1 July 2009.

14 Branch equivalent income or loss: calculation rules
Attributable CFC amount and net attributable CFC income or loss

- (1) In section EX 21(26), “the amount actuarially determined to be the part of the CFC’s net income or loss” is replaced by “the amount actuarially determined to be part of the CFC’s profit or loss”.

- (2) **Subsection (1)** applies for the 2008–09 and later income years.

14B Non-attributing active CFC: default test

- (1) In section EX 21D(7)(b), “not exceeding the included amount, that” is replaced by “not exceeding the included amount, to which”. 5
- (2) **Subsection (1)** applies for all income years beginning on or after 1 July 2009.

14C Non-attributing active CFC: test based on accounting standard 10

- (1) In section EX 21E(7)(g)(iii), “to the extent that the income” is replaced by “to the extent to which the income”.
- (2) In section EX 21E(9)(d), “not exceeding the included amount, that” is replaced by “not exceeding the included amount, to which”. 15
- (3) In section EX 21E(10)(d)(iii), “to the extent that the gain” is replaced by “to the extent to which the gain”.
- (4) **Subsections (1) to (3)** apply for all income years beginning on or after 1 July 2009.

14D Exemption for Australian unit trusts with adequate turnover or distributions 20

- (1) In section EX 32(1)(f), “section 15T” is replaced by “section 15N”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 25

14E Limits on choice of calculation methods

In section EX 46(10)(c)(i) and (cb)(i), “fixed-rate shares” is replaced by “fixed-rate foreign equities” in each place where it appears.

15 Accounting profits method 30

- (1) Section EX 49(6), other than the heading, is replaced by the following:

- “(6) For an income interest that the person has held for more than 12 months, the person may follow a simplified calculation process by choosing to be treated as holding, at all times in the ~~tax~~ income year, the same interest, including zero interest, that they held at the end of the ~~tax~~ income year. The person makes the election by completing their return of income accordingly for the relevant income year.” 5
- (2) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person in a return of income filed before the date of Royal assent of this Act ~~in the period from 1 April 2008 to the date of Royal assent of this Act~~ in relation to the calculation of an income interest in a FIF, relying on **section EX 49(6)** before the amendment made by this ~~subsection~~ section. 10 15

15B Policyholder base income: non-participation policies

- (1) In section EY 15(5), “in respect of a policy” is replaced by “relating to a policy”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 July 2010. 20

15C Policyholder base income: profit participation policies

- (1) In section EY 17(2)(b)(i), “shareholders” is replaced by “shareholder’s retained earnings”.
- (2) In section EY 17(2)(b)(ii), “shareholders” is replaced by “shareholder’s retained earnings”. 25
- (3) In section EY 17(2)(d), “in respect of participation policies” is replaced by “in relation to profit participation policies”.
- (4) In section EY 17(3)(a), “policyholder unvested liabilities” is replaced by “the value of assets supporting the life insurer’s policyholder unvested liabilities”. 30
- (5) **Subsections (1) to (4)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 35

in a return of income for the tax year corresponding to the first relevant income year.

15D Policyholder base allowable deductions: profit participation policies

(1) In section EY 18(b), “base.” is replaced by “base; and”, and the following is added: 5

“(c) the item **net transfers** is ignored.”

(2) **Subsection (1)** applies—

(a) on and after 1 July 2010, unless **paragraph (b)** applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 15

15E Shareholder base income: non-participation policies

(1) In section EY 19(2), “in respect of a policy” is replaced by “relating to a policy”.

(2) **Subsection (1)** applies for all income years beginning on or after 1 July 2010. 20

15F Shareholder base income: profit participation policies

(1) In section EY 21(2)(b)(i), “shareholders” is replaced by “shareholder’s retained earnings”.

(2) In section EY 21(2)(b)(ii), “shareholders” is replaced by “shareholder’s retained earnings”. 25

(3) In section EY 21(2)(d), “in respect of profit participation policies” is replaced by “in relation to profit participation policies”.

(4) **Subsections (1) to (3)** apply—

(a) on and after 1 July 2010, unless **paragraph (b)** applies: 30

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009

- in a return of income for the tax year corresponding to the first relevant income year.
- (5) **Subsection (1)** applies for all income years beginning on or after 1 July 2010.
- 15G Shareholder base allowable deductions: profit participation policies** 5
- (1) In section EY 22(b), “base.” is replaced by “base; and”, and the following is added:
- “(c) the item **net transfers** is ignored.”
- (2) **Subsection (1)** applies— 10
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 15
- in a return of income for the tax year corresponding to the first relevant income year.
- 15H Transitional adjustments: life risk**
- (1) In section EY 30(3)(b), “requirements of” is replaced by “requirements for the period described in”. 20
- (2) In the heading to section EY 30(4), “*employer sponsored*” is replaced by “*workplace*”.
- (3) In section EY 30(4), in the words before the paragraphs, “employer sponsored” is replaced by “workplace”.
- (4) Section EY 30(4)(b) and (c) are replaced by the following: 25
- “(b) the policy, if it is a credit card repayment insurance, meets the requirements for the period described in subsection (5)(c), or, if it is a workplace group policy, meets the requirements for the period described in **subsection (5)(d)**; and”. 30
- (5) In section EY 30(5), in the words before the paragraphs, “For the purposes of subsections (2)(b), (3)(b), and (4)(b), this section applies to a policy to the extent to which, for the following relevant period, it is described by the following relevant requirements” is replaced by “The following are the re- 35

- quirements and periods for the purposes of subsections (2)(b), (3)(b), and (4)(b), for a policy”.
- (6) In section EY 30(5)(c)(ii), “day.” is replaced by “day:”, and the following is added:
- “(d) for a life insurance policy for which the premium may vary each year, the period that starts on the grandparenting start day and ends on the earlier of the following:
- “(i) the day that the policy expires:
- “(ii) the day that is before the 3 years anniversary of the grandparenting start day.”
- (7) Section EY 30(11) is replaced by the following:
- “*Meaning of credit card repayment insurance*
- “(11) **Credit card repayment insurance** means a life insurance policy, if the benefits of the cover are for the repayment of an outstanding debt balance of a credit card.”
- (8) Section EY 30(12) is repealed.
- (9) In section EY 30(14), “employer sponsored” is replaced by “workplace”.
- (10) After section EY 30(14), the following is added:
- “*Meaning of workplace group policy*
- “(15) **Workplace group policy** means a life insurance policy with multiple individual’s life insurance cover grouped under it, if—
- “(a) the group of individuals is a class of employees of an employer, and the employer is the sponsor of the policy, or are members of a union registered under the Employment Relations Act 2000, and the trade union is the sponsor of the policy; and
- “(b) the general public are excluded; and
- “(c) where the sponsor is the employer, joining the life insurance policy is compulsory for the relevant class of employees, and the employer must pay the premiums.”
- (11) **Subsections (1) to (10)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009

in a return of income for the tax year corresponding to the first relevant income year.

15I Policyholder income formula: PILF adjustment

- (1) In section EY 43C(2), in the subsection heading, “*invested directly*” is replaced by “*invested indirectly*”. 5
- (2) In section EY 43C(2), “treated as investing directly in a multi-rate PIE” is replaced by “treated as investing indirectly in a multi-rate PIE”. 5
- (3) **Subsections (1) and (2)** apply for the 2010–11 and later income years. 10

15J Consistency of use of IFRS method: *Determination G3* change allowed

In section EZ 52B(2)(a), “; and” is replaced by “or an alternative to *Determination G3* under section EW 15E(2)(e) (What is included when spreading methods used); and”. 15

16 Attribution rule for income from personal services

- (1) After section GB 27(4), the following is added:
“*Cancellation of notional imputation credits*”
- “(5) For the purposes of subsection (4), to the extent to which the dividend paid by the company would have had an imputation credit attached that arose under section OB 16 (ICA attribution for personal services) in the absence of the election made under subsection (4)(c), the credit is treated as cancelled immediately before it would have been attached under sections HA 14 to HA 19 (which relate to dividends paid by qualifying companies).” 20
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 25

17 Loss balances not carried forward

In section HA 21, “subparts IA and IQ (which relate to the treatment of foreign losses)” is replaced by “subparts IA (General rules for tax losses) and IQ (Attributed controlled foreign company net losses and foreign investment fund net losses)”. 30

18 Beneficiary income

- (1) Section HC 6(1)(b) is replaced by the following:
 “(b) it is paid to a beneficiary of the trust in the income year
 or by the date after the end of the income year referred
 to in **subsection (1B)**.” 5
- (2) After section HC 6(1), the following is inserted:
 “*Date by which income must be allocated*
 “(1B) The date referred to in **subsection (1)(b)** is the later of the
 following:
 “(a) a date that falls within 6 months of the end of the income 10
 year; or
 “(b) the earlier of—
 “(i) the date on which the trustee files the return of
 income for the income year; or
 “(ii) the date by which the trustee must file a return 15
 for the income year under section 37 of the Tax
 Administration Act 1994.”
- (3) Section HC 6(3) and (4) are replaced by the following:
 “*Deriving beneficiary income in same year*
 “(3) When an amount derived by a trustee in an income year is also 20
 beneficiary income, the beneficiary is treated as having derived
 the income in the same tax year as that corresponding to the
 trustee’s income year.”
- (4) **Subsections (1) to (3)** apply for income years corresponding
 to the 2009–10 and later tax years. 25

19 Who is a settlor?

- (1) After section HC 27(3), the following is inserted:
 “*Employee share purchase schemes agreements*
 “(3B) Despite subsection (2), an employer is not a settlor for the pur- 30
 poses of the trust rules in relation to a payment made by them
 to the trustee of an employee share purchase ~~scheme~~ agree-
ment if—
 “(a) some or all of the payment is used by the trustee to
 acquire shares under the terms of the employee share
 purchase ~~scheme~~ agreement; and 35

- “(b) an amount that is less than or equal to the payment used by the trustee is ~~would be~~ income of an employee under section CE 1(d); and.
- “(c) ~~the scheme—~~
- “(i) ~~meets the criteria set out in sections DC 13 and DC 14 (which relate to the criteria for approval of employee share purchase schemes); and~~ 5
- “(ii) ~~has been approved by the Commissioner under section DC 12(1) (Loans to employees under share purchase schemes).~~” 10
- (2) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—
- (a) ~~in the period from 1 October 2007 that starts on the first day of the 2008–09 income year and ends on~~ to the date 15
of Royal assent of this Act; and
- (b) in relation to a payment to an employee share purchase ~~scheme agreement~~ in consideration of a valid salary sacrifice made by the employee; and
- (c) relying upon paragraph (a)(i) of the definition of **settlor** 20
in the Income Tax Act 2004, that the term **settlor** in the trust rules, and in the definitions of **corpus**, **foreign trust**, and **settlement**, for a trust other than a unit trust, means a person who makes, or has made at any time, a disposition of property to or for the benefit of the trust 25
or on terms of the trust for less than market value.

19B Unlisted company choosing to become portfolio listed company

- (1) After section HL 12(2), the following is added:
- “*Extension in certain cases*” 30
- “(3) Despite subsection (2), a company that makes an election under subsection (1) does not stop being a portfolio listed company from the last day of the period of 2 years from the date on which the election takes effect if—
- “(a) the company has met the requirements of subsection (1)(b) and (c) before 2 July 2009; and 35
- “(b) a period of 4 years from the date on which the election takes effect has not expired.

- “Further extension granted by Commissioner
“(4) Despite subsections (2) and (3), the Commissioner may grant a further extension of time if it is reasonable in the circumstances.”
- (2) Subsection (1) applies for the 2008–09 and later income years. 5
- 19C Minimum number of investors**
- (1) In section HM 14(3), “Subsection (4) and sections” is replaced by “Sections”.
- (2) Subsection (1) applies for the 2010–11 and later income years. 10
- 19D Maximum investors’ interests**
- (1) In section HM 15(2), “Sections HM 21(2) to (4), HM 22, and HM 22B ”is replaced by “Sections HM 21(2) to (4) and HM 22”. 15
- (2) Subsection (1) applies for the 2010–11 and later income years.
- 19E Requirements for listed PIEs: unlisted companies**
- (1) After section HM 18(2), the following is added:
“Extension of period for listing” 20
- “(3) Despite subsection (2), a company does not lose PIE status at the end of the 2-year period if—
“(a) the company has met the requirements of subsection (1)(b) and (c) before 2 July 2009; and
“(b) a period of 4 years from the date on which the election takes effect has not expired. 25
- “Further extension granted by Commissioner
“(4) Despite subsections (2) and (3), the Commissioner may grant a further extension of time if it is reasonable in the circumstances.” 30
- (2) Subsection (1) applies for the 2010–11 and later income years.
- 19F Sections HM 56 to HM 59 replaced**
- (1) Sections HM 56 to HM 59 are replaced by the following:

“HM 56 Prescribed investor rates: schedular rates

The prescribed investor rate of an investor in a multi-rate PIE is determined under **schedule 6, table 1** (Prescribed rates: PIE investments and retirement scheme contributions).

“Defined in this Act: investor, multi-rate PIE, prescribed investor rate

5

“HM 57 Prescribed investor rates for certain investors: 0%

An investor (a **zero-rated investor**) in a multi-rate PIE has a prescribed investor rate of 0% if they are resident in New Zealand and are—

“(a) a company:

10

“(b) an organisation or trust with income that is exempt income under section CW 41 or CW 42 (which relate to charities):

“(c) a proxy acting under section HM 33:

“(d) an exiting investor referred to in section HM 61:

15

“(e) a PIE or superannuation fund, other than a trustee who chooses a rate under **schedule 6, table 1, row 3 or 5** (Prescribed rates: PIE investments and retirement scheme contributions):

“(f) a person who derives income as a trustee and does not choose a rate under **schedule 6, table 1, row 3, 5, or 7**.

20

“Defined in this Act: company, exempt income, investor, multi-rate PIE, PIE, prescribed investor rate, resident in New Zealand, superannuation fund, trustee

“HM 58 Transitional rate for certain investors

25

“When this section applies

“(1) This section applies to a multi-rate PIE in relation to an income year that starts on or after 1 April 2010 and a person who,—

“(a) is an investor in the PIE; and

“(b) has a notified investor rate of 19.5% on the last day of the preceding income year.

30

“Rate applying

“(2) The person’s notified investor rate for income years that start on or after 1 April 2010 is treated as 21%.

- “Exception: new notified rate*
- “(3) **Subsection (2)** does not apply if the person advises the PIE of a different notified investor rate for an income year.
“Defined in this Act: income year, multi-rate PIE, notified investor rate, notify.”
- (2) **Subsection (1)** applies for the 2010–11 and later income years. 5
- 19G Notified rates**
- (1) In section HM 60, the section heading is replaced by “**Notified investor rates**”.
- (2) In section HM 60(1), “for a period.” is replaced by “for a period (the **notified investor rate**).” 10
- (3) In section HM 60(4), “notifies an investor rate” is replaced by “advises a notified investor rate”.
- (4) Section HM 60(5), other than the heading, is replaced by the following: 15
- “(5) The Commissioner may notify a PIE to disregard an investor’s notified investor rate if the Commissioner considers the rate is incorrect. The notification must include a rate for the investor that the Commissioner considers appropriate.”
- (5) In section HM 60(6), “not notify a multi-rate PIE of their investor rate” is replaced by “not advise a multi-rate PIE of their notified investor rate”. 20
- (6) **Subsections (1) to (5)** apply for the 2010–11 and later income years.
- 19H Certain exiting investors zero-rated** 25
- (1) In section HM 61, “applying to an investor” is replaced by “applying to an investor for a quarter”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 19I When elections take effect** 30
- (1) Section HM 72(2)(b) is replaced by the following:
- “(b) an event or situation arises that means the entity would lose PIE status under any of sections HM 24 to HM 28

because the requirements of sections HM 11 to HM 16 were not met in each quarter of the 12-month period.”

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2010.

20 New section HZ 5 7 added 5

After section HZ 4 6, the following is added:

“HZ 5 7 Saving of binding rulings relating to settlements on trusts

“When, and extent to which, this section applies

“(1) This section applies when, and to the extent to which,— 10

“(a) before the commencement of the Taxation (Consequential Rate Alignment and Remedial Matters) Act **2009**—

“(i) an applicant has applied for a binding ruling on an arrangement that is entered into, or that the applicant seriously contemplates will be entered into, before the commencement of the Taxation (Consequential Rate Alignment and Remedial Matters) Act **2009**: 15

“(ii) a binding ruling is issued; and

“(b) the binding ruling is about a provision of the Income Tax Act 2004 on the question whether an amount is a settlement on a trust; and 20

“(c) the binding ruling—

“(i) is made before or after the commencement of this Act and continues to exist at the commencement of the Taxation (Consequential Rate Alignment and Remedial Matters) Act **2009**; and 25

“(ii) is made in relation to a provision of the Income Tax Act 2004 to which section ZA 4 (Saving of binding rulings) of this Act would have applied but for the intended change listed in schedule 51 (Identified changes in legislation) for section HC 27(2) (Who is a settlor?) ~~made to remove the ambiguity inherent in paragraph (a)(i) of the definition of settlor in the Income Tax Act 2004;~~ 30
and 35

“(d) in the absence of this section, the commencement of the Taxation (Consequential Rate Alignment and Remedial

Matters) Act **2009** 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 continues to exist despite the intended 5
change referred to in **subsection (1)(c)(ii)** from the commencement of this Act to the date on which the Taxation (Consequential Rate Alignment and Remedial Matters) Act **2009** receives the Royal assent.

“No confirmation rulings

- “(3) To the extent to which a binding ruling continued by **subsection (2)** exists and applies to an arrangement, or to a person and an arrangement, the Commissioner must not make a binding ruling in the period ~~from~~ that starts on the date of the commencement of this Act to and ends on the date on which the 10
Taxation (Consequential Rate Alignment and Remedial Matters) Act **2009** receives the Royal assent on how— 15
- “(a) the new law applies to the arrangement or to the person and the arrangement; or
- “(b) this subsection applies to the arrangement or to the person and the arrangement. 20

“Defined in this Act: arrangement, binding ruling, Commissioner, settlement”.

21 Tax losses

- (1) In section IA 2(2),—
- (a) “carried forward to” is replaced by “carried forward 25
under section IA 3(4) to”;
- (b) “subtracted” is replaced by “subtracted under section
IA 4(1)(a)”.
- (2) Section IA 2(4)(b) is replaced by the following:
- “(b) a ~~company or a trustee~~ person whose imputation credits 30
are included in their annual gross income for the tax year: the amount of converted imputation credits arising under section LE 2 (Use of remaining credits by companies and trustees) for the tax year.”.
- (3) In section IA 2(4)(c), “section LP 10” is replaced by “section 35
LP 10(3)”.

- (4) In section IA 2(4)(d), “treated as a tax loss component of company A: the payment referred to in section OB 69(5)” is replaced by “converted into a tax loss component of company A: the amount calculated under section OB 69(7)”.
- (5) In section IA 2(4)(e) and (f), “corresponding income year” is replaced by “tax year” in all places in which each place where it appears. 5
- (5B) In section IA 2(4)(f), “IQ 3” is replaced by “IQ 3(3)”.
- (5C) In section IA 2(4)(g), “corresponding income year” is replaced by “tax year”. 10
- (6) Section IA 2(6) is repealed.
- (7) Section IA 2(7), other than the heading, is replaced by the following:
- “(7) For the purposes of this subpart, a **tax loss component**, for a tax year,— 15
- “(a) means an amount included in a tax loss for the tax year under subsection (3) or (4):
- “(b) includes—
- “(i) an unused amount of a net loss or an amount treated as a net loss or as an available net loss 20 of a person arising before the 2008–09 tax year which the person was entitled to have carried forward under section IE 1 (Net losses may be offset against future net income) of the Income Tax Act 2004 to that tax year: 25
- “(ii) an amount included in a company’s loss balance at the end of the tax year to which sections IZ 4 to IZ 6 (which relate to tax losses for tax years before 1992) apply, or other amounts in relation to which modified continuity rules apply.” 30
- (8) **Subsections (1) to (7)** apply for the 2008–09 and later income years.
- 22 Using tax losses in tax year**
- (1) The heading to section IA 3(5) is replaced by “*Relationship with other provisions in this subpart*”. 35
- (2) In section IA 3(5), “Sections IA 5 to IA 8” is replaced by “Sections IA 5, IA 8, and IA 10”.

- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

23 Using loss balances carried forward to tax year

- (1) In section IA 4(1)(b), “remaining loss balance” is replaced by “remaining loss balance carried forward under section IA 2(2)”.

- (2) Section IA 4(2) is replaced by the following:

“Relationship with other provisions in this subpart

- “(2) Sections IA 5 and IA 8 to IA 10 override this section.”

- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

24 Restrictions on companies’ loss balances carried forward

- (1) Section IA 5(1), other than the heading, is replaced by the following:

“(1) A company’s tax loss component is carried forward in a loss balance only if the minimum continuity requirements of subsections (2) and (3) are met. The tax loss component includes an unused tax loss component carried forward from an earlier income year.”

- (2) Section IA 5(4), other than the heading, is replaced by the following:

“(4) If a tax loss component cannot be carried forward because the requirements of subsections (2) and (3) are not met, the company may apply section IP 3 (Continuity breach: tax loss components of companies carried forward) to determine whether some or all of the tax loss component is carried forward in a loss balance.”

- (3) In section IA 5(6),—

(a) in the definition of **minimum market value interest**, “for a person and a period” is replaced by “for a person and a continuity period”:

(b) in the definition of **minimum voting interest**, “for a person and a period” is replaced by “for a person and a continuity period”.

- (4) **Subsections (1) to (3)** apply for the 2008–09 and later income years.

25 Restrictions on companies grouping tax losses

- (1) In section IA 6(1), “may use” is replaced by “may use under section IA 3(2)”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 5

26 Restrictions relating to ring-fenced losses

- (1) After section IA 7(1), the following is inserted:
“*Treatment as tax loss component*
“(1B) For the purposes of the application of sections IA 5, IA 6, IA 9, and IA 10, a ring-fenced tax loss under this section is treated as if it were a tax loss component.” 10
- (2) Section IA 7(2), other than the heading, is replaced by the following:
“(2) The general rules do not apply in relation to a loss-attributing qualifying company (LAQC) to an amount that would have been a loss balance carried forward under section IA 3(4) in the absence of sections HA 21 and HA 24(5) (which relate to the treatment of losses by LAQCs). The provisions that deal with these losses are sections HA 24 to HA 27.” 15
- ~~(3) In section IA 7(5), “surplus” is replaced by “surplus amount”.~~ 20
- (4) In section IA 7(6), “surplus” is replaced by “surplus amount”.
- (5) **Subsections (1) to (4)** apply for the 2008–09 and later income years.

27 General treatment

- (1) In section IQ 1(1), “subpart IA (General rules for tax losses)” is replaced by “sections IA 5, IA 9, and IA 10 (which relate to the continuity rules, the use of losses, and adjustments)” 25
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

28 New section IQ 1B inserted 30

- (1) After section IQ 1, the following is inserted:
“**IQ 1B Losses carried forward to tax year**
A person may carry forward either an An attributed CFC net loss or a FIF net loss or both may be carried forward to a tax

year. Section IA 5 (Restrictions on companies' loss balances carried forward) applies for the purposes of this subpart as if the net loss were a tax loss component.

“Defined in this Act: attributed CFC net loss, FIF net loss, tax loss component, tax year”.

5

- (2) **Subsection (1)** applies for the 2008–09 and later income years.

29 Ring-fencing cap on attributed CFC net losses

- (1) In section IQ 2(1)(a), “in relation to a CFC resident in the country in which the loss arose” is replaced by “from the country in which the CFC that has the net loss is resident in relation to a CFC resident in the same country in which the CFC that had the loss was resident at the time the loss arose” .

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- (2) In section IQ 2(1)(b), “in relation to a FIF resident in the country in which the loss arose” is replaced by “from the country in which the FIF that has the net loss is resident in relation to a FIF resident in the same country in which the CFC that had the loss was resident at the time the loss arose”.

15

- (3) In section IQ 2(2)(b), “the tax loss” is replaced by “the attributed CFC net loss carried forward”.

20

- (4) **Subsections (1) to (3)** apply for the 2008–09 and later income years.

29B Ring-fencing cap on FIF net losses

- (1) In section IQ 3(1)(a), “in relation to a CFC resident in the country in which the loss arose” is replaced by “in relation to a CFC resident in the same country in which the CFC that had the loss was resident at the time the loss arose”.

25

- (2) In section IQ 3(1)(b), “in relation to a FIF resident in the country in which the loss arose” is replaced by “in relation to a CFC resident in the same country in which the CFC that had the loss was resident at the time the loss arose”.

30

- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

30 Group companies using attributed CFC net losses

- (1) In section IQ 4(1)(a), “sections IA 4, IA 5, and IA 7 (which relate to the general use of tax losses)” is replaced by “**section IQ 1B**”.
- (2) In section IQ 4(1)(b), “section IC 5 (Company B using company A’s tax loss)” is replaced by “section IQ 2”.
- (3) In section IQ 4(2), “net loss.” is replaced by “net loss, and the part-year grouping rules in subpart IP (Meeting requirements for part-years) do not apply.”
- (4) In section IQ 4(3),— 10
- (a) “Section IQ 2 applies to the attributed CFC net loss, but is supplemented as follows:” is replaced by “If company A cannot use the maximum amount referred to in section IQ 2 before the excess is converted into a tax loss component under section IQ 2(3), company A may use 15 the amount in the following way:”:
- (b) in paragraph (a), “the tax loss” is replaced by “the attributed CFC net loss together with any amount carried forward”:
- (c) in paragraph (b)(ii), “IQ 2” is replaced by “this section”. 20
- (5) **Subsections (1) to (4)** apply for the 2008–09 and later income years.

30B Pre-consolidation losses: general treatment

- (1) In section IQ 6(1), “section ID 2 (Pre-consolidation losses: general treatment)” is replaced by “**section IQ 1B**”. 25
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

31 When group membership lacking in loss period

- (1) In section IQ 7(1),— 30
- (a) in paragraph (a), “section ID 2(2) (Pre-consolidation losses: general treatment)” is replaced by “section IQ 6”:
- (b) in paragraph (b), “the earlier tax year” is replaced by “the earlier tax year in which the net loss arose”.
- (2) In section IQ 7(2)— 35
- (a) in paragraph (a),—

- (i) “ring-fenced tax loss” is replaced by “ring-fenced tax loss referred to in subsection (1)”:
- (ii) “sections IA 3 to IA 5 (which relate to the general use of tax losses), and” is omitted:
- (b) in paragraph (b),— 5
 - (i) “ring-fenced tax loss” is replaced by “ring-fenced tax loss referred to in subsection (1)”:
 - (ii) “section IC 5, and” is omitted.
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 10

- 32 When group membership lacking in tax year of use**
- (1) In section IQ 8(1), “section ID 2(2) (Pre-consolidation losses: general treatment)” is replaced by “section IQ 6”.
- (2) In section IQ 8(2)(a), “ring-fenced tax loss” is replaced by “ring-fenced tax loss referred to in section IQ 7(1)”. 15
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

- 33 General treatment of mining companies’ tax losses**
- (1) In section IS 1, the section heading is replaced by “**General treatment of mining companies’ net losses**”. 20
- (2) In section IS 1(2), “tax loss” is replaced by “net mining loss”.
- (3) After section IS 1(2), the following is added:
“Meaning of net mining loss
 - “(3) For the purposes of this subpart, a **net mining loss** means that part of a net loss of a mining company, a resident mining operator, or a non-resident mining operator that is described in section IA 7(7) (Restrictions relating to ring-fenced tax losses).” 25
- (4) **Subsections (1) to (3)** apply for the 2008–09 and later income years.

- 34 Treatment of tax losses resulting from certain expenditure** 30
- (1) In section IS 2, the section heading is replaced by “**Treatment of net losses resulting from certain expenditure**”.
- (2) In section IS 2(1)(a), “tax loss” is replaced by “net mining loss”.

- (3) In section IS 2(1)(b), “a loss balance” is replaced by “an amount of net mining loss”.
- (4) In section IS 2(2), “loss balance” is replaced by “net mining loss”.
- (5) In section IS 2(4), “loss balance” is replaced by “net mining loss”.
- (6) After section IS 2(4), the following is added:
“Use against other income
- “(5) The company may subtract the amount of the net mining loss from its net income that is not attributable to the mining permit area but only after meeting for the whole of the continuity period the requirements set out in sections GB 3 (Arrangements for carrying forward loss balances: companies) and IA 5 (Restrictions on companies’ loss balances carried forward). For the purposes of applying section IA 5, the net mining loss is treated as if it were a tax loss component.”
- (7) **Subsections (1) to (6)** apply for the 2008–09 and later income years.
- 35 Holding companies’ tax losses**
- (1) In section IS 3(1)(a), “loss balance” is replaced by “net mining loss”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 36 Petroleum miners’ tax losses**
- (1) Section IS 5(2), other than the heading, is replaced by the following:
- “(2) The petroleum miner’s tax loss is reduced by the amount of the deduction, but only to the extent of the amount of the tax loss. For the reduction in their tax loss, the petroleum miner is allowed a deduction in an earlier tax year for an amount that is equal to the amount of the reduction. The deduction is allocated under section EJ 14 (Spreading deduction backwards).”
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

37 Life insurers' policyholder net losses

(1) Section IT 1(1) is replaced by the following:

“Amounts available

“(1) In calculating their policyholder base income tax liability for a tax year, a life insurer may use an amount of a policyholder net loss carried forward from an earlier tax year. The policyholder net loss includes an unused policyholder net loss determined under the Income Tax Act 2004 or Income Tax Act 1994. 5

“Loss carried forward

“(1B) If a life insurer has a balance of a policyholder net loss remaining for a tax year after the uses described in this section, the balance, including all unused amounts from earlier tax years, is carried forward to the next tax year as a ~~loss balance~~ policyholder net loss carried forward. 10

“Treatment as tax loss component

“(1C) For the purposes of the application of section IA 10 (Amended assessments), a policyholder net loss under this section is treated as if it were a tax loss component.” 15

(2) After section IT 1(2), the following is inserted:

“Restrictions on use

“(2B) A life insurer must not use a policyholder net loss to reduce a net loss of another life insurer in a tax year except as described in subsection (3).” 20

(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 25

37B Tax credits for payroll donations

Section LD 4(7)(c) is repealed.

37C When donation is paid to ineligible recipient

In section LD 6(3)(a), “the credit is included in” is replaced by “the credit is removed from”. 30

37D When donation returned to person

In section LD 7(3)(a), “the credit is included in” is replaced by “the credit is removed from”.

37E Tax credits for investors in multi-rate PIEs

(1) In section LS 2(1)(b)(ii), “19.5%” is replaced by “the rate set out in **schedule 6, table 1, row 5 or 7** (Prescribed rates: PIE investments and retirement scheme contributions), as applicable”.

5

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2010.

38 Adjustments for calculation of family scheme income

(1) After section MB 1(5B), the following is inserted:

“Amounts of depreciation loss on sale of building

10

“(5C) For the purposes of subsection (1), in relation to a building from the sale of which the person derives assessable income, an amount of depreciation loss allowed in the 2002–03 or earlier income year is not included in family scheme income. However, this subsection does not apply to an amount of depreciation loss of a business that under section MB 4 is treated as having no net income for the purposes of calculating family scheme income.”

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(2) **Subsection (1)** applies for the 2008–09 and later income years.

20

39 Calculation of maximum permitted ratios

(1) Section OA 18(3), other than the heading, is replaced by the following:

“(3) In the formula, **tax rate** is—

“(a) for subsection (1)(a) to (e), the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT and attributed fringe benefits) for the income year in which the dividend is paid:

25

“(b) for subsection (1)(f), the basic rate of income tax set out in schedule 1, part A, clause 7 for the income year in which the distribution is paid.”

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(2) **Subsection (1)** applies for the 2008–09 and later income years.

- 40 ICA payment of tax**
Section OB 4(3)(c) is replaced by the following:
“(c) income tax paid by a life insurer to satisfy its policyholder base income tax liability; or”.
- 40B ICA debit for loss of shareholder continuity** 5
(1) In section OB 41(1), “before the date on” is replaced by “at the time at”.
(2) Section OB 41(3) is replaced by the following:
“When debit arises
(3) The debit arises at the time shareholder continuity is lost.” 10
(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.
- 40C Table O2: imputation debits**
In table O2, row 14, column 3, “day” is replaced by “time”.
- 40D FDPA debit for loss of shareholder continuity** 15
(1) In section OC 24(1), “before the date on” is replaced by “at the time at”.
(2) Section OC 24(3) is replaced by the following:
“When debit arises
(3) The debit arises at the time shareholder continuity is lost.” 20
(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.
- 40E Table O4: FDP debits**
In table O4, row 13, column 3, “day” is replaced by “time”.
- 40F BETA credit for loss of shareholder continuity** 25
(1) In section OE 10(1), “before the date on” is replaced by “at the time at”.
(2) Section OE 10(3) is replaced by the following:
“When credit arises
(3) The credit arises at the time shareholder continuity is lost.” 30
(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

40G **Table O7: branch equivalent tax credits**

In table O7, row 5, column 3, “day” is replaced by “time”.

40H **MACA debit for loss of shareholder continuity**

(1) In section OK 15(1), “before the date on” is replaced by “at the time at”. 5

(2) Section OK 15(3) is replaced by the following:

“*When debit arises*

“(3) The debit arises at the time shareholder continuity is lost.”

(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 10

40I **Table O18: Maori authority debits**

In table O18, row 7, column 3, “day” is replaced by “time”.

40J **Consolidated ICA debit for loss of shareholder continuity**

(1) In section OP 42(1), “before the date on” is replaced by “at the time at”. 15

(2) Section OP 42(3) is replaced by the following:

“*When debit arises*

“(3) The debit arises at the time shareholder continuity is lost.”

(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 20

40K **Table O20: imputation debits of consolidated imputation groups**

In table O20, row 16, column 3, “day” is replaced by “time”.

40L **Consolidated FDPA debit for loss of shareholder continuity** 25

(1) In section OP 73(1), “before the date on” is replaced by “at the time at”.

(2) Section OP 73(3) is replaced by the following:

“*When debit arises*

“(3) The debit arises at the time shareholder continuity is lost.” 30

(3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

40M Table O22: FDP debits of consolidated FDP groups

In table O22, row 11, column 3, “day” is replaced by “time”.

40N Consolidated BETA credit for loss of shareholder continuity

(1) In section OP 104(1), “before the date on” is replaced by “at the time at”. 5

(2) Section OP 104(3) is replaced by the following:

“When credit arises

“(3) The credit arises at the time shareholder continuity is lost.”

(3) **Subsections (1) and (2) apply for the 2008–09 and later income years.** 10

40O Table O25: branch equivalent tax credits of consolidated BETA groups

In table O25, row 5, column 3, “day” is replaced by “time”.

41 New section OZ 18 added 15

(1) After section OZ 17, the following is added:

“OZ 18 Debits for loss of continuity: savings provision

“When this section applies

“(1) This section applies for the purposes of sections OB 41, OC 24, OE 10, OE 15, OK 15, OP 42, OP 73, OP 104, and OP 108 (which relate to debits to memorandum accounts for loss of shareholder continuity) in relation to a debit arising in the period from 1 October 2007 to the date of Royal assent of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009: 20
25

“Debit

“(2) A debit arises in a memorandum account for an amount equal to the amount of a credit retained in the account and unused before the time when shareholder continuity is lost.

“Debit date

“(3) The debit arises at the start of the day on which shareholder continuity is lost. 30

“Defined in this Act: amount; memorandum account; shareholder”.

- (2) **Subsection (1)** applies only for the period from 1 October 2007 to the date of Royal assent of this Act in relation to a tax position taken by a company—
- (a) in relation to the amount and timing of the debit for loss of shareholder continuity; and 5
 - (b) relying upon sections ME 5(1)(i) and (2)(h); ME 12(1)(h) and (2)(g); MF 4(1)(e) and (2)(d); MF 4(3)(d) and (4)(d); MF 8(2)(e) and (3)(d); MF 8(4)(d) and (5)(d); MG 5(1)(i) and (2)(g); MG 15(1)(i) and (2)(g); and MK 5(1)(f) and (2)(f) of the Income Tax Act 2004. 10

41B Amounts treated as income tax

- (1) In section RA 2, in the compare note, “NC 2(1)” is replaced by “NC 20(1)”. 15
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

42 Amounts of tax for PAYE income payments

- (1) Section RD 10(2)(a) and (b) are replaced by the following:
- “(a) for an employee whose taxable income for the income year is expected to be not more than \$48,000, the rate set out in schedule 2, part B, table 1, row 2; or 20
 - “(b) for an employee whose taxable income for the income year is expected to be not more than \$70,000, the rate set out in schedule 2, part B, table 1, row 3; or
 - “(c) for other employees, the rate set out in schedule 2, part B, table 1, row 4.” 25
- (2) After section RD 10(2), the following is inserted:
- “*Relationship with section RD 17*
- “(2B) Despite subsection (2), a person must not choose a rate set out in schedule 2, part B, table 1 that is lower than the rate that would apply to the amount of extra pay under section RD 17.” 30
- (3) **Subsections (1) and (2)** apply for the 2010–11 and later income years.

43 Payment of extra pay with other PAYE income payments

- (1A) Section RD 17(1) is replaced by the following: 35

“When this section applies

- “(1) This section applies when a person pays an amount of extra pay to an employee who also receives a PAYE income payment from the person, regardless of whether the extra pay is paid with or separately from a PAYE income payment. The amount of tax for the extra pay is based on the sum of— 5
- “(a) the amount of the extra pay; and
- “(b) the annualised value of all PAYE income payments made to the employee in the period that starts 4 weeks before the date of the payment of the extra pay and ends on the date of that payment. 10

“Calculating annualised value

- “(1B) For the purposes of calculating the amount that is the annualised value referred to in **subsection (1)(b)**, the amount of the extra pay referred to in **subsection (1)(a)** is excluded. 15

- (1) Section RD 17(2) and (3) are replaced by the following:

“Rates applying

- “(2) For the sum of the amounts referred to in **subsection (1)** listed in the following paragraphs, the amount of tax for the extra pay that must be withheld is the amount determined using the basic amounts of tax for PAYE income payments set out in the relevant row of **schedule 2, part B, table 1** (Basic tax rates for PAYE income payments): 20
- “(a) if the sum of the amounts is \$14,000 or less, the amount determined by applying row 1: 25
- “(b) if the sum of the amounts is more than \$14,000 but not more than \$48,000, the amount determined by applying row 2:
- “(c) if the sum of the amounts is more than \$48,000 but not more than \$70,000, the amount determined by applying row 3: 30
- “(d) if the sum of the amounts is more than \$70,000, the amount determined by applying row 4.

“When secondary tax codes apply

- “(3) Despite **subsection (2)**, if the person pays an amount of extra pay to an employee in relation to which the employee has notified the person that a secondary code under **section 24B(3)(bb)**, (c), (d), or (e) of the Tax Administration Act 35

1994 applies, the rate under **schedule 2, part B, table 1** applying to the extra pay is determined using the formula—

extra pay + annualised amount + low threshold amount.

“Definition of items in formula

- “(4) In the formula,—
- “(a) **extra pay** is the amount of the employee’s extra pay: 5
- “(b) **annualised amount** is the ~~annualised value of all PAYE income payments made by the person to the employee in the period that starts 4 weeks before the date of the payment of the extra pay and ends on the date of that payment~~ amount given by **subsections (1)(b) and (1B)**: 10
- “(c) **low threshold amount** is, as applicable,—
- “(i) for secondary code SB, \$0:
- “(ii) for secondary code S, \$14,001:
- “(iii) for secondary code SH, \$48,001: 15
- “(iv) for secondary code ST, \$70,001.”
- (1B) **Subsection (1A)** applies for the 2008–09 and later income years.
- (2) **Subsection (1)** applies for the 2010–11 and later income years. 20
- 43B RWT rules and their application**
- (1) In section RE 1(1)(c), “sections 15T” is replaced by “sections 15N”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 25
- 43C Resident passive income**
- (1) After section RE 2(5)(i), the following is added:
- “(j) a dividend treated as derived by a person under section GB 1(3) (Arrangements involving dividend stripping).”
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 30
- 44 New section RE 10B inserted**
- (1) After section RE 10, the following is inserted:

“RE 10B Amounts withheld from distributions to holders of FIF attributing interests

“When this section applies

“(1) This section applies when—

“(a) a distribution is made to a holder of an attributing interest in a FIF; and 5

“(b) section CD 36 (Foreign investment fund income) or EX 59(2) (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method) applies to the distribution; and 10

“(c) an amount of tax for resident passive income is withheld by the payer from the distribution because the payer has treated the distribution as resident passive income subject to the RWT rules. 15

“Treatment of amount

“(2) The amount withheld is treated as—

“(a) RWT for the purposes of this subpart and subpart LA (General rules for tax credits), and sections LB 3 (Tax credits for resident withholding tax), and RM 1 to RM 10 (which relate to refunds); and 20

“(b) tax paid in excess for the purposes of Part 10B of the Tax Administration Act 1994.

“Treatment of distribution

“(2B) The distribution is treated as resident passive income for the purposes of the sections listed in **subsection (2)**. 25

“Refunds

“(3) **Subsection (2)** does not apply if the payer or the holder applies under **section RM 8(4) or (5)** (Overpaid RWT or NRWT), as applicable, for a refund in relation to the amount withheld before the next 31 March after the date on which the amount of tax was withheld. 30

“Defined in this Act: amount of tax, attributing interest, FIF, pay, resident passive income, RWT, tax”.

(2) **Subsection (1)** applies for the 2008–09 and later income years. 35

45 Interest

(1) After section RE 12(4) the following is added:

- “Modification for companies and portfolio investment entities for 2010–11 income year*
- “(5) Despite subsection (3)(a), the amount of tax that the person must withhold and pay may, if the person chooses, be calculated under subsection (3) using a **tax rate** of 0.30 if— 5
- “(a) the payment of resident passive income that consists of interest is made to a company or a portfolio investment entity in the 2010–11 income year; and
- “(b) the tax rate under subsection (3)(a) would be 0.33 in the absence of this subsection. 10
- “Default rate*
- “(6) A person described in **schedule 1, part B, table 2, row 5** who is paid interest but has not provided the payer of the interest with a payment rate election before 1 April 2011 has a default payment rate of 0.380 from that date for a payment of resident passive income that consists of interest.” 15
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 45B Choosing higher rates**
- (1) The heading to section RE 19 is replaced by **Choosing other rates**. 20
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 46 When payment treated as non-resident passive income**
- (1) Section RE 22(1)(a) is replaced by the following: 25
- “(a) a person (**person A**) is required to pay an amount that meets the requirements of section RE 2 would be treated as resident passive income in the absence of this section to another person (**person B**); and”.
- (2) **Subsection (1)** applies for the 2008–09 and later income 30 years.
- 47 NRWT rules and their application**
- (1) After section RF 1(2), the following is added:

- “What this section does not apply to*
- “(3) This section does not apply to an amount referred to in section CC 1(2)(a) to (d) (Land) to which section CC 9 (Royalties) applies. ~~unless the non-resident passive income is an amount paid for—~~ 5
- ~~“(a) the exploitation of, or right to exploit, plant material or a naturally occurring material or mineral arising in or on the land:~~
- ~~“(b) the removal of, or right to remove, plant material or a naturally occurring material or mineral arising in or on the land.~~ 10
- “Exception: certain income from land*
- “(4) Despite **subsection (3)**, this section does apply to non-resident passive income that is an amount paid for—
- “(a) the exploitation of, or right to exploit, plant material or a naturally occurring material or mineral arising in or on the land: 15
- “(b) the removal of, or right to remove, plant material or a naturally occurring material or mineral arising in or on the land.” 20
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 47B Obligation to withhold amounts of tax for non-resident passive income**
- (1) In section RF 3, the following is inserted after the section heading as a subsection heading: 25
- “Withholding amount of tax”.
- (2) In section RF 3, the following is inserted as subsection (2):
- “Exclusion
- “(2) Despite subsection (1), no obligation to withhold NRWT arises in relation to an amount treated as a dividend under section GB 1(3) (Arrangements involving dividend stripping).” 30
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.
- 47C When amounts of tax not withheld or partly withheld** 35
- (1) After section RF 6(1), the following is inserted:

- “When amount treated as dividend*
- “(1B) A person who derives non-resident passive income that is a dividend under section GB 1(3) (Arrangements involving dividend stripping) is treated as a filing taxpayer.”
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 5
- 47D Interest paid by approved issuers or transitional residents**
- In section RF 12(3), “in respect of a registered security” is replaced by “in relation to a registered security”.
- 48 Overpaid RWT or NRWT** 10
- (1) After section RM 8(2), the following is added:
- “When subsections (4) and (5) apply*
- “(3) **Subsections (4) and (5)** apply when—
- “(a) a holder of an attributing interest in a FIF receives a distribution from which an amount of tax for resident passive income has been withheld; and 15
- “(b) section CD 36 (Foreign investment fund income) applies to the distribution.
- “Certain FIF income: application by holder*
- “(4) The holder may apply for a refund if— 20
- “(a) they apply before the next 31 March after the date on which the amount was withheld, with supporting information to show that the threshold referred to in section CQ 5(1)(d) (When FIF income arises) has been exceeded for their corresponding income year; and 25
- “(b) the person making the distribution has not—
- “(i) paid them a refund of the amount; or
- “(ii) applied themselves under **subsection (5)** for a refund in relation to the amount; and
- “(c) they notify the person making the distribution of their application under this subsection. 30
- “Certain FIF income: application by payer*
- “(5) The person making the distribution may apply for a refund if—
- “(a) they apply before the next 31 March after the date on which the amount was withheld, with supporting information to show the payment has been made to the holder 35

- without any subtraction permitted by section RA 12(5) and (6) (Adjustment to correct errors: certain excess amounts); and
- “(b) the holder has not applied for a refund under **subsection (4)** in relation to the amount; and 5
- “(c) they provide, in relation to the amount,—
- “(i) a statement that they will not include particulars in an RWT withholding reconciliation statement made under section 51 of the Tax Administration Act 1994; and 10
- “(ii) the disclosure information required by section 52 of that Act.
- “*Use of refund*
- “(6) An amount of a refund paid under **subsection (4) or (5)** may be used under section RM 10 to satisfy a liability under the Inland Revenue Acts.” 15
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 49 Definitions**
- (1) This section amends section YA 1. 20
- (2) The definition of **cost of timber** is replaced by the following:
“**cost of timber**, in sections EJ 1, EW 2, EZ 44, FB 6, and FB 7 (which relate to the disposal of timber), means the amount referred to in **section DP 11(1)(b)** (Expenditure related to disposal of timber) that is a deduction under **section DP 11(2)**.” 25
- (2) The definition of **cost of timber** is replaced by the following:
“**cost of timber**, in sections **DP 11**, EJ 1, EW 2, EZ 44, FB 6, and FB 7 (which relate to the disposal of timber),—
- “(a) means the amount of expenditure incurred by a person in relation to timber— 30
- “(i) before harvest, for a disposal of harvested timber:
- “(ii) before the disposal of the timber or the relevant right, for a disposal of standing timber or a disposal of a right take timber, or another right referred to in **section DP 11(5)** (Cost of timber); 35
- and
- “(b) includes, for **section DP 11**, —

- “(i) expenditure on planning, planting, and growing the timber:
- “(ii) expenditure incurred in relation to the rights listed in **section DP 11(5)**; and
- “(c) excludes— 5
- “(i) expenditure for which a deduction is allowed under a provision of this Act other than **section DP 11:**
- “(ii) expenditure to which section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant) applies: 10
- “(iii) an amount allowed as a deduction under section DQ 4 (Environmental restoration accounts scheme)”.
- (2B) The definition of **creditor workout** is replaced by the following: 15
- “**creditor workout**, in relation to a financial arrangement, means—
- “(a) a compromise, as that term is defined in section 227 of the Companies Act 1993, in writing that, for the parties to the financial arrangement, is binding under Part 14, 15, or 15A of that Act, or is otherwise legally binding, to the extent to which the compromise does not cancel all of a debt: 20
- “(b) a suspension in part of the repayment of any deposit, the payment of any debt, or the discharge of any obligation, under section 44 of the Corporations (Investigation and Management) Act 1989”. 25
- (3) In the definition of **dispose**, in paragraph (b), “**DP 11 (Cost of timber)**” is replaced by “**DP 11 (Expenditure related to disposal of timber)**”. 30
- (3B) In the definition of **dividend**, the following is added after paragraph (e):
- “(f) in sections FM 30, GB 38, OP 58, and OP 64 to OP 68 (which relate to consolidated groups), subpart OE (Branch equivalent tax accounts (BETA)), subpart OJ (Policyholder credit accounts (PCA)), in the FDP rules and the imputation rules, and in the definitions of **benchmark dividend, combined imputation and** 35

FDP ratio, company dividend statement, excess credit amount, FDP credit, FDP ratio, imputation credit, imputation ratio, pay, and shareholder dividend statement, does not include an amount treated as a dividend under section GB 1(3) (Arrangements involving dividend stripping)”. 5

(3C) In the definition of employer monthly schedule, in paragraph (k), “row 2” is replaced by “row 3”.

(3D) The definition of employer sponsored group policy is omitted. 10

(3E) In the definition of fixed-rate share, paragraphs (f) and (g) are replaced by the following:

“(f) in section FA 2B (Stapled debt securities), and the definitions of proportional-stapling company and stapled debt security, means— 15

“(i) a share described in paragraph (a):

“(ii) a share that would be a share described in paragraph (a) but for a dividend or a variation in the rate of dividend that may occur when the share is converted into another share (the other share) if the gain is attributable solely to a cause set out in paragraph (g): 20

“(iii) a share for which the dividend payable is the equivalent of the payment of interest for money lent, having regard to the factors set out in paragraph (h): 25

“(g) for the purposes of paragraph (f)(ii), the causes are—

“(i) a change in value of the other share occurs in a period that starts no more than 30 days before the share is converted and ends when the share is converted, and the period was a term or condition of the share when the share was first issued: 30

“(ii) a term or condition of the share that existed when the share was first issued, and the term or condition sets the gain at a fixed percentage equal to 5% or a lesser percentage of the amount subscribed for the share: 35

“(h) for the purposes of paragraph (f)(iii), the factors are—

“(i) whether or not the share is redeemable:

- “(ii) any security provided to the shareholder, including put or call options over the share or any amount payable determined by reference to the amount of dividend payable:
- “(iii) the variability or lack of variability of the dividend payable”.
- (4) After the definition of **forestry assets**, the following is inserted:
“forestry business includes ~~the activities carried on by a person on whom the obligations of a landowner under a covenant described in regulation 6 of the Forests (Permanent Forest Sink) Regulations 2007 are imposed in relation to a forest sink area described in regulation 3 of those regulations~~ a PFSI forestry business”.
- (4B) In the definition of lease, in paragraph (d)(vi) and (d)(vii), “paragraph (e)” is replaced by “paragraph (f)” in each place where it appears.
- (5) In the definition of **lease**, in paragraph (f)(ii), “paragraph (c)” is replaced by “paragraph (d)”.
- (5B) In the definition of lessee,—
 (a) in paragraph (a), “paragraph (b)” is replaced by “paragraph (c)”:
 (b) in paragraph (b), “paragraph (c)” is replaced by “paragraph (d)”.
- (5C) In the definition of lessor,—
 (a) in paragraph (a), “paragraph (b)” is replaced by “paragraph (c)”:
 (b) in paragraph (b), “paragraph (c)” is replaced by “paragraph (d)”.
- (6) The definition of **loss balance** is replaced by the following:
“loss balance, for a tax year,—
 “(a) means the sum of all tax loss components—
 “(i) arising in the tax year and included in the tax loss for the tax year under section IA 2(3) and (4) (Tax losses), to the extent not used under section IA 3(1) to (3) or IA 4(1)(a) (which relate to the first use and to particular losses):

- “(ii) arising in an earlier tax year and carried forward under section IA 3(4) to the tax year, to the extent not used under section IA 3(1) to (3) or IA 4(1)(a):
- “(b) does not include a tax loss component included in a company’s loss balance at the end of the tax year if the requirements of section IA 5 (Restrictions on companies’ loss balances carried forward), as modified by sections IZ 4 to IZ 6 (which relate to tax losses for tax years before 1992), have not been met”.
- (7) After the definition of **net loss**, the following is inserted:
 “**net mining loss** is defined in **section IS 1(3)** (General treatment of mining companies’ net losses) for the purposes of subpart IS (Mining companies’ and petroleum miners’ tax losses)”.
- (8) After the definition of **new personal tax rate person**, the following is inserted:
 “**new reporting standard** is defined in **section DB 35** (Some definitions) for the purposes of **section DB 34** (Research or development)”.
- (9) After the definition of **old financial arrangements rules**, the following is inserted:
 “**old reporting standard** is defined in **section DB 35** (Some definitions) for the purposes of **section DB 34** (Research or development)”.
- (9B) After the definition of **petroleum-related depreciable property**, the following is inserted:
“**PFSI forestry business** means the forestry activities carried on by a person who, as landowner, is subject to obligations under a forest sink covenant referred to in section 67X of the Forests Act 1949 in relation to the land specified in the covenant
“**PFSI forestry income**, for a person, means the income from a PFSI forestry business—
“(a) relating to a forest sink covenant entered into by the person; and
“(b) derived by the person from—

- “(i) receiving an emissions unit under the covenant;
or
“(ii) entering into a transaction in relation to an emis-
sions unit received under the covenant”.
- (9C) In the definition of **PIE rules**, paragraph (a)(vii), “ring-fenced 5
losses” is replaced by “ring-fenced tax losses”.
- (9D) After the definition of **policyholder base income**, the follow-
ing is inserted:
“**policyholder unvested liabilities** means benefits that are al-
located to policyholders of profit participation policies but are 10
not vested in a specific policyholder”.
- (10) The definition of **prescribed investor rate** is replaced by the
following:
“**prescribed investor rate**, for a person who is an investor in
a portfolio tax rate entity and for a portfolio allocation period 15
in a tax year, means—
- “(a) 0%, if the person is a resident who is—
- “(i) a company:
- “(ii) an organisation or trust with income that is ex- 20
empt income under section CW 41 or CW 42
(which relate to the income of charities):
- “(iii) a portfolio investment entity or superannuation
fund, other than a person who chooses to have a
rate of 30% under **paragraph (f)**:
- “(iv) a person who derives income as a trustee and does 25
not choose to have a rate of 30% under **para-**
graph (f):
- “(v) a portfolio investor proxy for the portfolio allo-
cation period:
- “(b) 12.5%, if the person is a resident who derived, in 30
either of the 2 income years immediately before the tax
year,—
- “(i) \$14,000 or less in taxable income; and
- “(ii) \$48,000 or less in the sum of their taxable income 35
and portfolio investor allocated income after sub-
tracting any portfolio investor allocated loss:
- “(c) 21%, if the person is a resident who derived, in either of
the 2 income years immediately before the tax year,—

- “(i) \$14,000 or less in taxable income, and more than \$48,000 but not more than \$70,000 in the sum of their taxable income and portfolio investor allocated income after subtracting any portfolio investor allocated loss; or 5
- “(ii) more than \$14,000 but not more than \$48,000 in taxable income, and \$70,000 or less in the sum of their taxable income and portfolio investor allocated income after subtracting any portfolio investor allocated loss: 10
- “(d) 21%; if the person notifies a portfolio investment entity before 1 April 2010 that 19.5% is their applicable rate:
- “(e) 30% if the person is a resident who derived, in either of the 2 income years immediately before the tax year,— 15
- “(i) more than \$48,000 in taxable income: 15
- “(ii) more than \$70,000 in the sum of their taxable income and portfolio investor allocated income after subtracting any portfolio investor allocated loss:
- “(f) 30%; if the person is a resident who derives income as a trustee of a trust other than a trust referred to in paragraph (a)(ii) and who chooses to have this investor rate for the tax year”.
- (10B) In the definition of **prescribed investor rate**, “under sections HM 56 to HM 59 (which relate to the default and other tax rates for investors)” is replaced by “set out in **schedule 6, table 1** (Prescribed rates: PIE investments and retirement scheme contributions)”. 25
- (11) The definition of **reporting standard** is repealed.
- (12) The definition of **retirement scheme prescribed rate** is replaced by the following: 30
- “**retirement scheme prescribed rate**, for a person and a retirement scheme contribution made for the person at a time in an income year, means a ~~rate of~~ a rate set out in **schedule 6, table 2** (Prescribed rates: PIE investments and retirement scheme contributions) 35
- “(a) 0%, if the person is a non-resident at the time and the contribution is non-resident passive income; or
- “(b) 12.5%, if the person—

- “(i) derives, in either of the 2 income years immediately before the income year in which the contribution is made, taxable income of \$14,000 or less:
- “(ii) is a non-resident and a distribution of no more than \$200 is made to them by a retirement scheme contributor that is a Maori authority: 5
- “(iii) is a non-resident who supplies a retirement scheme contributor that is a Maori authority with a notice under section 28C of the Tax Administration Act 1994; or 10
- “(e) 21%, if the person derives, in either of the 2 income years immediately before the income year in which the contribution is made, more than \$14,000 but not more than \$48,000 in taxable income; or 15
- “(d) 33%, if the person derives, in either of the 2 income years immediately before the income year in which the contribution is made, more than \$48,000 but not more than \$70,000 in taxable income; or
- “(e) 38%”. 20
- (12B) In the definition of **RMBS special purpose vehicle**,—
- (a) in the introductory words, “HR 9” is replaced by “HR 9 (RMBS special purpose vehicles are transparent)”:
- (b) in paragraph (c), “is in respect of” is replaced by “relates to”. 25
- (12C) In the definition of **RWT proxy**, “section 15T” is replaced by “section 15N”.
- (12D) The definition of **savings product policy** is replaced by the following:
- “**savings product policy** means a life insurance policy, other than an annuity, that may or may not have a life risk component and that has or will have a surrender value which—
- “(a) is greater than zero; and
- “(b) does not arise wholly from the payback of a portion of a policyholder’s premiums”. 30 35
- (12E) In the definition of **share purchase agreement**, “employment income)” is replaced by “employment income) and **HC 27(3B)** (Who is a settlor?)”.

- (13) The definition of **tax loss** is replaced by the following:
 “**tax loss** means an amount described in section IA 2(1) (Tax losses) and includes unused tax loss components arising in the current tax year or in an earlier tax year”.
- (13B) In the definition of **taxable distribution**, “section HC 15(2)” 5
is replaced by “section HC 15”.
- (14) The definition of **timber** is replaced by the following:
 “**timber**—
 “(a) is defined in **section DP 11(5)** (~~Expenditure related to disposal~~ Cost of timber) for the purposes of that section: 10
 “(b) includes standing timber in—
 “(ia) **section DP 11**:
 “(i) section EB 24 (Apportionment on disposal of business assets that include trading stock):
 “(ii) section FB 6 (Timber or right to take timber): 15
 “(iii) section GC 1 (Disposals of trading stock at below market value):
 “(iv) the definition of **dispose**, paragraph (b):
 “(v) the definition of **right to take timber**:
 “(vi) the definition of **trading stock**, para- 20
 graph (b)(iv)”.
- (14B) After the definition of **working day**, the following is inserted:
 “**workplace group policy** is defined in **section EY 30** (Transitional adjustments: life risk)”.
- (14C) In the definition of **zero-rated investor**, “HM 59” is replaced 25
by **HM 57**.
- (14D) **Subsections (2), (2B), (3B), (3E), (4), (4B), (5), (5B), (5C), (6), (7), (9B), (12C), (12E), (13), (13B), and (14)** apply for the 2008–09 and later income years.
- (15) **Subsections (10) and (12)** apply for the 2010–11 and later 30
income years.
- (16) **Subsections (3C), (9C), (10B), (12), and (14C)** apply for the 2010–11 and later income years.
- (17) **Subsections (3D), (9D), (12D), and (14B)** apply—
 (a) on and after 1 July 2010, unless **paragraph (b)** applies: 35
 (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Tax-

ation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

49B Tripartite relationship

In section YB 14(1), “YB 13” is replaced by “YB 12” in each place where it appears. 5

50 Transparency of nominees

(1) After section YB 21(2), the following is added:

“*Nominal settlements*

“(3) A person making a nominal settlement at the request of another person is treated for the purposes of this Act as a nominee in relation to the settlement.” 10

(2) **Subsection (1)** applies for the 2008–09 and later income years.

51 Schedule 1—Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits 15

(1) In schedule 1, part D, clauses 3 to 6, “passive resident income” is replaced by “resident passive income” in each place where it appears.

(2) Schedule 1, part D, table 2 is replaced by the following: 20

Table 2

Row	Conditions	Payment rate
1	The payer of the interest has not been supplied with the tax file number of the person who is paid the interest.	0.380
2	For a person who receives interest on money deposited into a new account opened <u>opens a new account</u> after 31 March 2010; whether for a fixed period or not , the payer of the interest— (a) has been supplied with the tax file number of the person; and (b) has not received a payment rate election from the person.	0.380
3	For a person who chooses the payment rate of 0.380, the payer of the interest—	

Table 2

Row	Conditions	Payment rate
4	<p>(a) has been supplied with the tax file number of the person; and</p> <p>(b) has received a payment rate election from the person.</p> <p>For a person who chooses the payment rate of 0.330, the payer of the interest—</p>	0.380
5	<p>(a) has been supplied with the tax file number of the person; and</p> <p>(b) has received a payment rate election from the person.</p> <p>For a person in relation to whom RWT is withheld at the payment rate of 0.195 before 1 April 2010, the payer of the interest—</p>	0.330
6	<p>(a) has been supplied with the tax file number of the person; and</p> <p>(b) has not received a payment rate election from the person.</p> <p>For a person who chooses the payment rate of 0.210, the payer of the interest—</p>	0.210
7	<p>(a) has been supplied with the tax file number of the person; and</p> <p>(b) has received a payment rate election from the person.</p> <p>For a person <u>other than a trustee</u> who chooses the payment rate of 0.125 and has a reasonable expectation at the time of the election that their income for the income year will be \$14,000 or less, the payer of the interest—</p>	0.210
8	<p>(a) has been supplied with the tax file number of the person; and</p> <p>(b) has received a payment rate election from the person.</p> <p>For a person—</p> <p>(a) <u>who—</u></p> <p style="padding-left: 20px;">(i) <u>receives interest as a trustee of a testamentary trust to which section HC 37 applies; and</u></p>	0.125

Table 2

Row	Conditions	Payment rate
	<p><u>(ii) chooses the payment rate of 0.125; and</u></p> <p><u>(b) in relation to whom, the payer of the interest—</u></p> <p><u>(i) has been supplied with the tax file number of the person; and</u></p> <p><u>(ii) has received a payment rate election from the person.</u></p>	0.125

How to use this table

Find the applicable condition in the second column, in order to find the relevant rate to apply, in the third column.

- (3) In schedule 1, part D, table 3, “0.33” is replaced by “0.30” in each place where it appears.
- (4) In schedule 1, part D, table 3, “0.39” is replaced by “0.38” in each place where it appears.
- (4B) In schedule 1, part D, table 4,— 5
- (a) in row 1, “0.39” is replaced by “0.38”;
- (b) in row 2, “0.390” is replaced by “0.380”.
- (5) Schedule 1, part D, table 5 is replaced by the following:

Table 5

Row	Conditions	Payment rate
1	<p>The person responsible for withholding RSCT—</p> <p>(a) has been notified under section 28C of the Tax Administration Act 1994 that 12.5 cents in the dollar is the person’s retirement scheme prescribed rate; and</p> <p>(b) has been supplied with the tax file number of the person.</p>	0.125
2	The person is a non-resident and a distribution of no more than \$200 is made to them by a retirement scheme contributor that is a Maori authority.	0.125
3	The person responsible for withholding RSCT—	

Table 5

Row	Conditions	Payment rate
4	(a) has been notified under section 28C of the Tax Administration Act 1994 that 21 cents in the dollar is equal to or greater than the person's retirement scheme prescribed rate; and (b) has been supplied with the tax file number of the person. The person responsible for withholding RSCT—	0.210
	(a) has been notified under section 28C of the Tax Administration Act 1994 that 33 cents in the dollar is equal to or greater than the person's retirement scheme prescribed rate; and (b) has been supplied with the tax file number of the person.	
5	When none of rows 1 to 4 apply.	0.380

How to use this table

Find the applicable condition in the second column, in order to find the relevant rate to apply, in the third column.

- (6) **Subsection (1)** applies for the 2008–09 and later income years.
- (7) **Subsections (2), (4), (4B), and (5)** apply for the 2010–11 and later income years.
- (8) **Subsection (3)** applies for the 2011–12 and later income years.

52 Schedule 2—Basic tax rates for PAYE income payments

(1A) In schedule 2, part A, clause 2, the formula is replaced by the following:

$$\left(\frac{\text{total payment}}{\text{weekly portion of the payment}} \right) \times \frac{\text{weekly PAYE table amount.}}{\text{amount.}}$$

- (1) After schedule 2, part A, clause 7 ~~8~~, the following is added: 10

“8 9 “SB” tax code

If an employee has notified their employer that the employee’s tax code is “SB” under **section 24B(3)(bb)** of the Tax Administration Act 1994, the basic tax rate amount for a payment of secondary employment earnings is set by applying the rate of 0.125 for each dollar of the payment.”

- (2) Schedule 2, part B, table 1 is replaced by the following:

Table 1

Row	Condition	Payment rate
1	Section RD 17(2)(a) applies and the sum is \$14,000 or less.	0.125
2	Section RD 10(2)(a) or RD 17(2)(b) applies.	0.210
3	Section RD 10(2)(b) or RD 17(2)(c) applies.	0.330
4	Section RD 10(2)(c) or RD 17(2)(d) applies.	0.380

How to use this table

Find the applicable condition in the second column, in order to find the relevant rate to apply, in the third column.

- (2B) **Subsection (1A)** applies for the 2008–09 and later income years.

- (3) **Subsections (1) and (2)** apply for the 2010–11 and later income years.

5

52B New schedule 6 inserted

- (1) After schedule 5, the following is inserted:

Schedule 6

ss CX 50B, HM 56

Prescribed rates: PIE investments and retirement scheme contributions

10

“1 PIE investments

The prescribed investor rate for a person who is an investor in a multi-rate PIE is set out in **table 1**.

Table 1

<u>Row</u>	<u>Conditions</u>	<u>Pre-scribed rate</u>
<u>1</u>	<p><u>For a natural person who is resident in New Zealand and who, in each of the 2 income years before the relevant tax year, derives—</u></p> <p>(a) <u>\$48,000 or more in taxable income;</u></p> <p>(b) <u>\$70,000 or more in the sum of their taxable income and attributed PIE income after subtracting any attributed PIE loss.</u></p>	<u>0.300</u>
<u>2</u>	<u>For a non-resident person who notifies this rate for the relevant tax year.</u>	<u>0.300</u>
<u>3</u>	<p><u>For a person who—</u></p> <p>(a) <u>is resident in New Zealand and who derives income for the relevant tax year as a trustee of a trust other than a trust with income that is exempt income under section CW 41 or CW 42; and</u></p> <p>(b) <u>notifies this rate for the relevant tax year.</u></p>	<u>0.300</u>
<u>4</u>	<p><u>For a natural person who is resident in New Zealand and is not a person described in row 1 and who, in either of the 2 income years before the relevant tax year, derives—</u></p> <p>(a) <u>between \$14,000 and \$48,000 in taxable income; and</u></p> <p>(b) <u>\$70,000 or less in the sum of their taxable income and attributed PIE income after subtracting any attributable PIE loss.</u></p>	<u>0.210</u>
<u>5</u>	<p><u>For a person who—</u></p> <p>(a) <u>is resident in New Zealand and derives income for the relevant tax year as a trustee of a trust other than a trust with income that is exempt income under section CW 41 or CW 42; and</u></p> <p>(b) <u>notifies this rate for the relevant tax year.</u></p>	<u>0.210</u>

Table 1

Row	Conditions	Pre-scribed rate
<u>6</u>	For a natural person who is resident in New Zealand and is not a person described in row 1 or row 4 and who, in either of the <u>2</u> income years before the relevant tax year, derives— (a) \$14,000 or less in taxable income; and (b) \$48,000 or less in the sum of the taxable income and attributed PIE income after subtracting any attributable PIE loss.	<u>0.125</u>
<u>7</u>	For a person who— (a) is resident in New Zealand and derives income for the relevant tax year as a trustee of a testamentary trust to which section <u>HC 37</u> applies other than a trust with income that is exempt income under section <u>CW 41</u> or <u>CW 42</u> ; and (b) notifies this rate for the relevant tax year.	<u>0.125</u>
<u>8</u>	For a person who is a zero-rated investor.	<u>0.000</u>

How to use this table

Find the applicable condition in the second column, in order to find the relevant rate to apply, in the third column.

“2 Retirement scheme contributions

The retirement scheme prescribed rate for a person in relation to a retirement scheme contribution made for them is set out in **table 2**.”

Table 2

Row	Conditions	Pre-scribed rate
<u>1</u>	For a person other than a person described in any of rows 2 to 7 .	<u>0.380</u>
<u>2</u>	For a person who, in either of the 2 income years before the income year in which the contribution is made, derives more than \$48,000 but not more than \$70,000 in taxable income.	<u>0.330</u>
<u>3</u>	For a person who is not a person described in row 2 and who, in either of the 2 income years before the income year in which the contribution is made, derives more than \$14,000 but not more than \$48,000 in taxable income.	<u>0.210</u>
<u>4</u>	For a person who is not a person described in row 2 or 3 and who, in either of the 2 income years before the income year in which the contribution is made, derives taxable income of \$14,000 or less.	<u>0.125</u>
<u>5</u>	For a non-resident person to whom a distribution of no more than \$200 is made by a retirement scheme contributor that is a Maori authority.	<u>0.125</u>
<u>6</u>	For a non-resident person who supplies a retirement scheme contributor that is a Maori authority with a notice under section 28C of the Tax Administration Act 1994.	<u>0.125</u>
<u>7</u>	For a non-resident person in relation to a contribution that consists of non-resident passive income.	<u>0.000</u>

How to use this table

Find the applicable condition in the second column, in order to find the relevant rate to apply, in the third column.

- (2) **Subsection (1)** applies to income years beginning on or after 1 April 2010.

53 Schedule 51—Identified changes in legislation

- (1) In schedule 51, after the entry for FC 2 to FC 6, the following is inserted:

GB 1	The relationship between the dividend stripping rule and the withholding tax rules is clarified so that the RWT and NRWT rules apply to a dividend subject to a tax avoidance arrangement Section GB 1(3) is clarified to confirm that the amount of the dividend derived is part of the consideration for the shares.
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- (2) In schedule 51, after the entry for GB 42(2)(d), the following is inserted:

HC 27(2)	The definition of settlor is clarified so that any transfer to a trust that increases the net assets of the trust is a settlement on the trust and any deductible payments settled on a trust are included in trustee income.
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- (3) In schedule 51, after the entry for LC 9(2), the following is inserted:

OB 41(3); OC 24(3); OE 10(3); OK 15(3); OP 42(3); OP 73(3); OP 104(3); OP 108(3)	The interaction between the rules for debits for loss of continuity and the time at which the debit is attached is clarified so that the time the debit arises is the beginning of the day of loss of continuity.
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- (4) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—

- (a) in the period from 1 October 2007 to the date of assent of this Act; and
 (b) in relation to a dividend derived by them; and
 (c) relying upon section GB 1(3) of the Income Tax Act 2004 as a guide to the interpretation of section GB 1.

- (5) **Subsections (1) and (2) and (3)** apply for the 2008–09 and later income years.

“24C Tax code for payment that includes income-tested benefits

An employee who receives a PAYE income payment of an income-tested benefit and a PAYE income payment that does not consist of an income-tested benefit may choose, for their non-benefit income, a tax code set out in **section 24B(3)(bb)**, (c), (d), or (e) that is relevant to their circumstances.”

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(2) **Subsection (1)** applies for the 2010–11 and later income years.

59B New heading and new section 25A

(1) Before section 25, the following is inserted:

10

“RWT rates, certificates, and records

“25A Use of inconsistent RWT rates

“(1) This section applies when the Commissioner considers that a person who receives a payment of resident passive income consisting of interest has chosen in relation to the payment an RWT rate that is inconsistent with their marginal tax rate.

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“(2) The Commissioner may notify the payer of the interest of the inconsistent rate and provide the payer with the RWT rate for the person.

“(3) The payer must use the RWT rate provided by the Commissioner in relation to the person as soon as reasonably practicable after the date of notification. However, if the person subsequently notifies the payer of a different RWT rate, the payer must apply the rate notified by the person.”

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(2) **Subsection (1)** applies for the 2010–11 and later income years.

25

60 New section 26B inserted

(1) After section 26, the following is inserted:

“26B Withholding rates for RWT

A person paying an amount of resident passive income that consists of interest must, for each year, remind the person receiving the amount to ensure that the basic rate of RWT applying to the payment under schedule 1, part D, table 2 of the Income Tax Act 2007 is consistent with the rate of tax applying to their taxable income.”

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35

~~(2)~~ **Subsection (4)** applies for the 2010–11 and later income years.

61 Person advising retirement savings scheme of retirement scheme prescribed rate

(1) In section 28C, “39%” is replaced by “38%”. 5

(2) **Subsection (1)** applies for the 2010–11 and later income years.

62 Annual returns of income not required

(1A) In section 33A(1)(b)(iv), the following is inserted before subparagraph (A): 10

“(AAA) schedule 1, part D, table 2, row 5 or 6 of the Income Tax Act 2007 if that person’s annual gross income is more than \$14,000 but not more than \$48,000; or”.

(1AB) In section 33A(1)(b)(iv)(A), “row 3” is replaced by “row 4”. 15

(1AC) In section 33A(1)(b)(iv)(B), “row 4 or 5” is replaced by “row 1, 2 or 3”.

(1AD) In section 33A(1)(b)(v), the following is inserted before subparagraph (A):

“(AAA) schedule 2, part B, row 2 of the Income Tax Act 2007 if that person’s annual gross income is more than \$14,000 but not more than \$48,000; or”.

(1AE) In section 33A(1)(b)(v)(A), “row 2” is replaced by “row 3”.

(1AF) In section 33A(1)(b)(v)(B), “row 3” is replaced by “row 4”. 25

(1) In section 33A(1)(b)(vi), the following is inserted before subparagraph (A):

“(AA) schedule 2, part A, clause 4 of the Income Tax Act 2007 if that person’s annual gross income is more than \$14,000 but not more than \$48,000; or”.

(2) In section 33A(5), “must” is replaced by “may”.

(3) **Subsection (4) Subsections (1A), (1AB), (1AC), (1AD), (1AE), (1AF), and (1)** applies apply for the 2010–11 and later income years. 35

- (4) **Subsection (2)** applies for the 2009–10 and later income years.

62B Certificates about trees

- (1) In section 44C(3), “schedule 20, part A, item 8” is replaced by “schedule 20, part A, item 9”. 5
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

63 Natural person to request income statement

- (1) Section 80C(1), (1A), and (2) are repealed.
- (2) **Subsection (1)** applies for the 2009–10 and later income years. 10

63 Section 80C replaced

- (1) Section 80C is replaced by the following:

80C Requests for income statements

- A person to whom section 33A(1) applies may, at any time after the end of the person’s tax year, request the issue of an income statement relating to that year.” 15
- (2) **Subsection (1)** applies for the 2009–10 and later income years.

64 Commissioner must issue income statement 20

- (1) Section 80D(1)(c)(i) is repealed.
- (2) In section 80D(2), “to a person at any time” is replaced by “to a person, or require a person to apply for an income statement, at any time”.
- (3) **Subsection (1)** applies for the 2009–10 and later income years. 25

64B Statement of family scheme income

- (1) Section 80KV(2) is replaced by the following:
- “(2) The person must, in the time within which they are required to file their return of income for the tax year, give the Commissioner a complete statement of their family scheme income 30

for the tax year, including the family scheme income of their spouse, civil union partner, or de facto partner, as applicable.”

(2) **Subsection (1)** applies for the 2009–10 and later income years.

65 Taxation laws in respect of which binding rulings may be made 5

(1A) In section 91C(1)(e), “on an application to which section YA 4(1)(a)(i) of the Income Tax Act 2004 applies,” is omitted.

(1) In section 91C(1)(eb), “on an application to which section ZA 4(1)(a)(i) of the Income Tax Act 2007 applies,” is omitted.

66 New section 113A inserted

After section 113, the following is inserted:

“113A Correction of minor errors in subsequent returns 15

“(1) This section applies for the purposes of this Act and the Goods and Services Tax Act 1985 when—

“(a) a person has provided a return ~~of income~~ in which the assessment of their liability for income tax, fringe benefit tax, or goods and services tax contains 1 or more minor errors; and

“(b) the error was caused by a clear mistake, simple oversight, or mistaken understanding on the person’s part; and

“(c) for a single return, the total discrepancy in the assessment that is caused by the error is \$500 or less. 25

“(2) The Commissioner may allow the person to correct the error in the next return ~~of income~~ that is due after the discovery of the error.

“(3) For the purposes of **subsection (1)(c)**, the liability the person has for income tax, fringe benefit tax, or goods and services tax is treated separately.” 30

67 Certain rights of challenge not conferred

In section 138E(1)(e)(iv), “120U,” is replaced by “120U, 138I(2B),”. 35

68 Definitions

- (1) In section 173B, the definition of **contested tax** is repealed.
- (2) ~~In section 173B, after the definition of **tax recovery arrangement**, the following is added:~~

~~“**uncontested tax** means an amount of tax—~~

5

~~“(a) whose payment is enforceable under the laws of the state of the applicant requesting assistance under a tax recovery arrangement; and~~

~~“(b) that is owed by a person who cannot, under the laws of the state of the applicant, prevent collection of the amount.”.~~

10

68B Limitations on assistance in recovery

Section 173G(1) is replaced by the following:

- “(1) The Commissioner may assist in recovering an amount of unpaid tax only if—

15

“(a) payment of the amount is enforceable under the laws of the state of the applicant requesting assistance under a tax recovery agreement; and

“(b) the amount is owed by a person who cannot, under the laws of the state of the applicant, prevent collection of the amount.

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- “(1B) The circumstances in which the Commissioner may provide assistance under this section include the following in relation to the amount of unpaid tax:

“(a) the period within which the person may exercise a right to contest the assessment has expired;

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“(b) the person has withdrawn an objection in relation to the amount;

“(c) the person has waived a right to contest the assessment;

“(d) the person is required to pay some or all of the amount, regardless of any right to contest the assessment;

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“(e) the person is otherwise unable, under the laws of the state of the applicant, to prevent collection of the amount.

- “(1C) For the purposes of this section and section 173E(2)(a), the amount referred to in **subsection (1)** is an uncontested amount.”

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Part 3
Amendments to Goods and Services Tax
Act 1985

- 69 Goods and Services Tax Act 1985**
Sections 70 and 71 amend the Goods and Services Tax Act 1985. 5
- 70 Meaning of associated persons**
- (1) Section 2A(1)(f) is replaced by the following: 10
- “(f) a trustee of a trust and a person who has benefited or is eligible to benefit under the trust, except if, in relation to a supply of goods and services,— 10
- “(i) the trustee is a charitable or non-profit body with wholly or principally charitable, benevolent, philanthropic, or cultural purposes and the supply is made in carrying out these purposes; or 15
- “(ii) the person is a charitable or non-profit body with wholly or principally charitable, benevolent, philanthropic, or cultural purposes and the supply enables them to carry out these purposes:”. 15
- (2) Section 2A(1)(h) is replaced by the following: 20
- “(h) a trustee of a trust and a trustee of another trust if the same person is a settlor of both trusts, except if, in relation to a supply of goods and services,— 20
- “(i) either trustee is a charitable or non-profit body with wholly or principally charitable, benevolent, philanthropic, or cultural purposes; and 25
- “(ii) the supply is made in, or enables, the carrying out of the charitable, benevolent, philanthropic, or cultural purposes:”. 25
- 71 Meaning of term supply** 30
- After section 5(6AB), the following is inserted:
- “(6AC) For the purposes of this Act, a levy that is paid under the Waste Minimisation Act 2008 is treated as being consideration for a supply of services in the course or furtherance of a taxable activity. For the purposes of this subsection, the payment of the levy includes, and is for, the following transactions: 35

- “(a) a payment made by a waste disposal facility user to a waste disposal facility operator; and
- “(b) a payment made by a waste disposal facility operator to the Secretary for the Ministry for the Environment; and
- “(c) a payment made by the Secretary to a funding recipient or territorial authority to fund waste minimisation activities in the community as described in section 30 of the Waste Minimisation Act 2008.”

Part 4

Amendments to Income Tax Act 2004

- 72 Income Tax Act 2004** 10
Sections 73 to 83 amend the Income Tax Act 2004.
- 73 Available capital distribution amount** 15
In section CD 33(11), “subsection (12)” is replaced by “subsections (7)(c) and (12)”.
- 73B Meaning of expenditure on account of an employee**
In section CE 5(3)(bb), “meals” is replaced by “meals and certain other allowances”.
- 73C Expenditure on account, and reimbursement, of employees** 20
In section CW 13(4), “section CW 13B (Relocation payments) or section CW 13C (Payments for overtime meals)” is replaced by “section CW 13B or CW 13C”.
- 74 Research or development** 25
 - (1) Section DB 26(2), other than the heading, is replaced by the following:
 - “(2) Subsection (1) applies to a person who recognises the expenditure as an expense for financial reporting purposes,—
 - “(a) under paragraph 5.1 or 5.2 of the old reporting standard or because paragraph 5.4 of that standard applies; or
 - “(b) under paragraph 68(a) of the new reporting standard applying, for the purposes of that paragraph, paragraphs 54 to ~~57~~ 67 of that standard.”

- (2) Section DB 26(4)(b) is replaced by the following:
- “(b) would be required, if the expenditure were material, to recognise it for financial reporting purposes—
- “(i) under paragraph 5.1 or 5.2 of the old reporting standard or because paragraph 5.4 of that standard applies; or 5
- “(ii) under paragraph 68(a) of the new reporting standard applying, for the purposes of that paragraph, paragraphs 54 to ~~57~~ 67 of that standard.”
- (3) **Subsections (1) and (2)** apply for the 2007–08 ~~and later~~ income years, or if the person has chosen to adopt IFRSs for financial reporting purposes for an earlier income year, from that earlier income year. 10

75 Some definitions

In section DB 27(1), the definition of **reporting standard** is replaced by the following: 15

“**new reporting standard** means the New Zealand Equivalent to International Accounting Standard 38, approved by the Accounting Standards Review Board, and as amended from time to time or an equivalent standard issued in its place 20

“**old reporting standard** means Financial Reporting Standard No 13 1995 (Accounting for Research and Development Activities) being the standard approved under the Financial Reporting Act 1993, or an equivalent standard issued in its place, that applies in the tax year in which the expenditure is incurred”. 25

76 Gifts of money by company

Section DB 32(3), other than the heading, is replaced by the following:

- “(3) The deduction for the total of all gifts made in a tax year an income year is limited to 5% of the amount that would be the company’s net income in the corresponding tax year if ~~this section did not exist~~ in the absence of this section.” 30

77 Section DP 10 replaced

- (1) Section DP 10 is replaced by the following: 35

“DP 10 Expenditure related to disposal Cost of timber*“When this section applies*

“(1) This section applies at the time of disposal of timber when—

“(a) section CB 22 or CB 23 (which relate to the disposal of timber) applies to a person; and 5

“(b) the person—

“(i) has incurred actual expenditure related to the disposal of the timber; or

“(ii) has an existing liability in relation to the expenditure; and 10

“(c) no other provision of this Act allows a deduction for the expenditure.

“When this section applies

“(1) This section applies when a person—

“(a) derives an amount on the disposal of timber and the amount is income of the person under section CB 22 (Disposal of timber or right to take timber) or CB 23 (Disposal of land with standing timber); and 15

“(b) has incurred expenditure in relation to the timber that is a cost of timber. 20

“Deduction

“(2) The person is allowed a deduction for the amount ~~of the expenditure incurred~~ that is a cost of timber.

“Timing of deduction

“(3) The deduction is allocated— 25

“(a) for timber harvested from the land before the time of disposal, to the income year in which the timber first becomes trading stock of the person; or

“(b) otherwise, by section EA 2 (Other revenue account property). 30

“Relationship with section DB 37

“(4) This section does not apply to expenditure to which section DB 37 (Avoiding, remedying, or mitigating effects of discharge of contaminant) applies.

“Meaning of timber 35

“(5) In this section, **timber** includes—

“(a) the creation or grant of a right to take timber:

“(b) the grant of a licence or an easement in relation to timber:

“(c) 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 in relation to establishing, maintaining, and harvesting timber. 5

“*Link with subpart DA*

“(6) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply.

“Defined in this Act: amount, business, capital limitation, cost of timber, deduction, dispose, general permission, income year, timber, trading stock”. 10

(2) **Subsection (1)** applies for the 2007–08 ~~and later~~ income years, or if the person has chosen to adopt IFRSs for financial reporting purposes for an earlier income year, from that earlier income year. 15

77B Ring-fenced allocations

In section DT 1A(4), “in respect of the excess” is replaced by “for the excess”.

78 Branch equivalent income or loss: calculation rules

(1) In section EX 21(26), “the amount actuarially determined to be the part of the CFC’s net income or loss” is replaced by “the amount actuarially determined to be part of the CFC’s profit or loss”. 20

(2) **Subsection (1)** applies for the 2005–06 and later income years. 25

79 Accounting profits method

(1) Section EX 42(5), other than the heading, is replaced by the following:

“(5) For an income interest that the person has held for more than 12 months, the person may follow a simplified calculation process by choosing to be treated as holding, at all times in the ~~tax~~ income year, the same interest, including zero interest, that they held at the end of the ~~tax~~ income year. The person makes the election by completing their return of income accordingly for the relevant income year.” 30 35

(2) **Subsection (1)** applies for the 2005–06 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person ~~in the period from 1 April 2005 to 31 March 2008~~ in a return of income filed before the date of Royal assent of this Act in relation to the calculation of an income interest in a FIF, relying on **section EX 42(5)** before the amendment made by this ~~subsection~~ section. 5

79B Unlisted company may choose to become portfolio listed company 10

After section HL 11B(2), the following is added:

“Extension in certain cases

“(3) Despite subsection (2), a company that makes an election under subsection (1) does not stop being a portfolio listed company from the last day of the period of 2 years from the date on which the election takes effect if— 15

“(a) the company has met the requirements of subsection (1)(b) and (c) before 2 July 2009; and

“(b) a period of 4 years from the date on which the election takes effect has not expired. 20

“Further extension granted by Commissioner

“(4) Despite subsections (2) and (3), the Commissioner may grant a further extension of time if it is reasonable in the circumstances.”

80 Credits arising to imputation credit account 25

In section ME 4(1)(a)(ii), “to which section EY 47 applies” is omitted.

81 New section NF 2E inserted

(1) After section NF 2D, the following is inserted:

“NF 2E Amounts withheld from distributions to holders of FIF attributing interests 30

“(1) This section applies when—

“(a) a distribution is made to a holder of an attributing interest in a FIF; and

- “(b) section CD 26 or EX 47(2) applies to the distribution;
and
- “(c) an amount of resident withholding tax is deducted from
the distribution because the payer has treated the dis-
tribution as resident withholding income subject to the
RWT rules. 5
- “(2) The amount deducted is treated as—
- “(a) RWT for the purposes of this subpart and subpart MD
and section LD 3; and
- “(b) tax paid in excess for the purposes of Part 10B of the
Tax Administration Act 1994. 10
- “(2B) The distribution is treated as resident withholding income for
the purposes of the provisions listed in **subsection (2)**.
- “(3) **Subsection (2)** does not apply if the person making the distri-
bution or the holder of the interest applies under section NF 7 15
for a refund in relation to the amount withheld before the next
31 March after the date on which the amount of tax was with-
held.”
- (2) **Subsection (1)** applies for the 2005–06 and later income
years. 20
- 82 Definitions**
- (1) This section amends section OB 1.
- (2) In the definition of **cost of timber**, “section DP 10(1) (Cost
of timber)” is replaced by “**section DP 10(1)** (Expenditure
related to disposal of timber)”. 25
- (2) The definition of **cost of timber** is replaced by the following:
“**cost of timber**, in sections **DP 10**, EJ 1, EW 2, and EZ 41
(which relate to the disposal of timber)—
- “(a) means the amount of expenditure incurred by a person
in relation to timber— 30
- “(i) before harvest, for a disposal of harvested timber:
- “(ii) before the disposal of the timber or the relevant
right, for a disposal of standing timber or a dis-
posal of a right to take timber, or another right re-
ferred to in **section DP 10(5)** (Cost of timber); 35
- and
- “(b) includes, for **section DP 10**,—

- “(i) expenditure on planning, planting, and growing the timber:
- “(ii) expenditure incurred in relation to the rights listed in **section DP 10(5)**; and
- “(c) excludes— 5
- “(i) expenditure for which a deduction is allowed under a provision of this Act other than **section DP 10:**
- “(ii) expenditure to which section DB 37 (Avoiding, remedying, or mitigating effects of discharge of contaminant) applies: 10
- “(iii) an amount allowed as a deduction under section DQ 4 (Environmental restoration accounts scheme)”.
- (2B) In the definition of **creditable membership**, paragraph (b) is replaced by the following: 15
- “(b) includes, for a person,—
- “(i) the period described in **paragraph (c)**:
- “(ii) the days in the month in which securities are first allotted by the KiwiSaver scheme or complying superannuation fund in relation to the person: 20
- “(iii) for the period beginning on 1 July 2007 and ending on the day on which securities are first allotted by the KiwiSaver scheme for the person, the days in the month that the KiwiSaver scheme receives a valid application for membership from the person and any remaining days in that period, if the person makes contributions in relation to the KiwiSaver scheme before 1 November 2007: 25
- “(c) the period referred to in **paragraph (b)(i)** is the period ending on the day on which securities are first allotted by the KiwiSaver scheme for the person and beginning on the earliest of— 30
- “(i) the first day of the month in which contributions are first received by the Commissioner for the person: 35
- “(ii) the first day of the month in which KiwiSaver contributions are first deducted for the person:

- “(iii) the day that the Commissioner nominates following a request by the person when, due to matters beyond the control of the person, the first deduction of KiwiSaver contributions was delayed”.
- (3) In the definition of **dispose**, in paragraph (b), “**DP 10 (Cost of timber)**” is replaced by “**DP 10 (Expenditure related to disposal of timber)**”.
- (3B) In the definition of **fixed rate share**, paragraphs (f) and (g) are replaced by the following:
- “(f) in section FC 2B (Stapled debt securities), and the definitions of **proportional-stapling company** and **stapled debt security**, means—
- “(i) a share described in paragraph (a):
- “(ii) a share that would be a share described in paragraph (a) but for a dividend or a variation in the rate of dividend that may occur when the share is converted into another share (the **other share**) if the gain is attributable solely to a cause set out in **paragraph (g)**:
- “(iii) a share for which the dividend payable is the equivalent of the payment of interest for money lent, having regard to the factors set out in **paragraph (h)**:
- “(g) for the purposes of **paragraph (f)(ii)**, the causes are—
- “(i) a change in value of the other share occurs in a period that starts no more than 30 days before the share is converted and ends when the share is converted, and the period was a term or condition of the share when the share was first issued:
- “(ii) a term or condition of the share that existed when the share was first issued, and the term or condition sets the gain at a fixed percentage equal to 5% or a lesser percentage of the amount subscribed for the share:
- “(h) for the purposes of **paragraph (f)(iii)**, the factors are—
- “(i) whether or not the share is redeemable:
- “(ii) any security provided to the shareholder, including put or call options over the share or any

- amount payable determined by reference to the amount of dividend payable:
- “(iii) the variability or lack of variability of the dividend payable”.
- (4) After the definition of **forester**, the following is inserted: 5
 “**forestry business** includes the forestry activities carried on by a person on whom the obligations of a landowner under a covenant described in regulation 6 of the Forests (Permanent Forest Sink) Regulations 2007 are imposed in relation to a forest sink area described in regulation 3 of those regulations 10
who, as landowner, is subject to obligations under a forest sink covenant referred to in section 67X of the Forests Act 1949 in relation to the land specified in the covenant”.
- (5) After the definition of **new provisional taxpayer**, the following is inserted: 15
 “**new reporting standard** is defined in **section DB 27** (Some definitions) for the purposes of **section DB 26** (Research or development)”.
- (6) After the definition of **old financial arrangements rules**, the following is inserted: 20
 “**old reporting standard** is defined in **section DB 27** (Some definitions) for the purposes of **section DB 26** (Research or development)”.
- (6B) The definition of **overtime** is replaced by the following: 25
“**overtime** is defined in section CW 13C(6) (Payments for overtime meals and certain other allowances) for the purposes of that section”.
- (7) The definition of **timber** is replaced by the following:
 “**timber**—
 “(a) is defined in **section DP 10(5)** (Expenditure related to disposal Cost of timber) for the purposes of that section: 30
 “(b) includes standing timber in—
 “(ia) **section DP 10:**
 “(i) section FB 4 (Income derived from disposal of trading stock together with other assets of business): 35
 “(ii) section FF 7 (Disposal of timber under relationship agreement):

- “(iii) section GD 1 (Sale or other disposal of trading stock for inadequate consideration):
- “(iv) section GD 2 (Distribution of trading stock to shareholders of company):
- “(v) the definition of **dispose**, paragraph (b): 5
- “(vi) the definition of **right to take timber**:
- “(vii) the definition of **trading stock**, paragraph (b)(iv)”.
- (8) ~~In the definition of **trading stock**, in paragraph (a)(vi), “DP 10 (Cost of timber)” is replaced by “DP 10 (Expenditure related to disposal of timber)”.~~ 10
- (9) **Subsections (2), (4), and (7)** apply for the 2005–06 and later income years.

83 Lists of defined terms in Income Tax Act 2004

The lists of defined terms in the sections of the Income Tax Act 2004 listed in **schedule 2** are amended in the way indicated by the schedule. 15

Part 5

Amendments to other Acts

Amendment to Income Tax Act 1994 20

84 Credits arising to imputation credit account

In section ME 4(1)(a)(ii) of the Income Tax Act 1994, “to which section CM 16 applies” is omitted.

Amendment to Maori Trustee Amendment Act 2009 25

85 Taxes and duties

In section 29(3) of the Maori Trustee Amendment Act 2009, “section 31(1) of the Tax Administration Act 1994” is replaced by “section 3(1) of the Tax Administration Act 1994”.

*Amendments to Taxation (International
Taxation, Life Insurance, and Remedial
Matters) Act 2009*

86 **Section CX 55 replaced**

In section 63(2)(b)(i) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009, “paragraph (b)” is replaced by “subparagraph (ii)”. 5

87 **Gifts of money by company**

Section 757 is repealed.

Amendment to Student Loan Scheme Act 1992

10

88 **Commissioner to assess borrower’s repayment obligation**

(1) Section 15(1) of the Student Loan Scheme Act 1992 is replaced by the following:

“(1) The Commissioner must make an assessment of the amount, if any, of a borrower’s repayment obligation for a tax year as soon as practicable after the end of the tax year.” 15

(2) **Subsection (1)** applies for the 2009–10 and later income years.

Schedule 1

s 54

**Consequential amendments to lists of
defined terms in Income Tax Act 2007**

<i>Row</i>	<i>Section</i>	<i>Defined term omitted</i>	<i>Defined term inserted</i>
1	CC 9		natural resource
2	CD 34	foreign-sourced amount	
3	CS 2	KiwiSaver scheme	
4	DB 23	portfolio investment-linked life fund	
5	DB 34	reporting standard	new reporting standard, old reporting standard
6	DB 35	reporting standard	new reporting standard, old reporting standard
7	DP 1		forestry business
8	DP 2		forestry business
9	DP 3		forestry business
10	DP 4		forestry business
11	DP 8		forestry business
12	DP 9		forestry business
<u>12B</u>	<u>EH 34</u>		<u>PFSI forestry income</u>
13	EH 63		forestry business
14	EH 73		forestry business
15	EH 78		forestry business
<u>15B</u>	<u>EX 20B</u>		<u>group of persons, market value circumstance, market value interest, voting interest</u>

**Taxation (Consequential Rate Alignment
and Remedial Matters) Bill**

<i>Row</i>	<i>Section</i>	<i>Defined term omitted</i>	<i>Defined term inserted</i>
<u>15C</u>	<u>EY 30</u>	<u>employer sponsored group policy</u>	<u>workplace group policy</u>
16	GB 27		imputation credit, pay
17	HC 6	non-standard income year	return of income
18	HC 27		amount, <u>assessable income</u> , Commissioner, income, share, <u>share purchase agreement</u> , trustee
<u>18B</u>	<u>HL 12</u>		<u>Commissioner</u>
<u>18C</u>	<u>HM 48</u>	<u>prescribed investor rate</u>	
<u>18D</u>	<u>HM 61</u>		<u>quarter</u>
<u>18E</u>	<u>HM 72</u>		<u>quarter</u>
19	IA 2	corresponding income year, schedular income, schedular income tax liability	trustee
20	IA-3		tax-loss-component
21	IA 7		loss balance, ring-fenced tax loss
22	IQ 2	tax loss	
23	IQ 4	tax loss	
24	IS 1	tax loss	net mining loss
25	IS 2	loss balance, tax loss	net mining loss, tax loss component
26	IS 3	loss balance	net mining loss
27	IS-5		net income, permit area

**Taxation (Consequential Rate Alignment
and Remedial Matters) Bill**

Schedule 1

<i>Row</i>	<i>Section</i>	<i>Defined term omitted</i>	<i>Defined term inserted</i>
28	IT 1		tax loss component
29	MB 1		business, depreciation loss
30	OA 18		pay
31	RE 12		company, income year, portfolio investment entity
32	RE 22	resident in New Zealand	
33	RF 1		amount
<u>33B</u>	<u>RF 3</u>		<u>amount, dividend, NRWT</u>
34	RM 8		attributing interest, corresponding income year, FIF, Inland Revenue Acts, notify, resident passive income.

Schedule 2

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Consequential amendments to lists of
defined terms in Income Tax Act 2004

<i>Row</i>	<i>Section</i>	<i>Defined term omitted</i>	<i>Defined term inserted</i>
1	CD 24B	foreign-sourced amount	
<u>1B</u>	<u>DB 17</u>	<u>portfolio investment-linked fund</u>	
2	DB 26	reporting standard	new reporting standard, old reporting standard
3	DB 27	reporting standard	new reporting standard, old reporting standard
4	DP 1		forestry business
5	DP 2		forestry business
6	DP 3		forestry business
7	DP 3B		forestry business
8	DP 7		forestry business
9	DP 8		forestry business
10	EH 65		forestry business
11	EH 75		forestry business
12	EH 80		forestry business.

Legislative history

21 July 2009

28 July 2009

Introduction (Bill 55-1)
First reading and referral to Finance and
Expenditure Committee