

Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following enactments:

- Child Support Act 1991
- Child Support Amendment Act 2013
- Income Tax Act 2007
- Income Tax Act 2004
- Income Tax Act 1994
- Tax Administration Act 1994
- Goods and Services Tax Act 1985
- Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014
- Goods and Services Tax (Grants and Subsidies) Order 1992
- Finance Act (No. 2) 1990

Generally speaking, the taxation amendments contained in this Bill are aimed at improving the current tax settings within a broad-base, low rate framework. Under this framework, the tax treatment of al-

ternative forms of income and expenditure is intended to be as even as possible. This ensures that overall tax rates can be kept low, while also minimising the biases that taxation introduces into economic decisions. This framework underpins the Government’s Revenue Strategy and helps maintain confidence that the tax system is broadly fair, which is crucial to encouraging voluntary compliance.

Although New Zealand has relatively strong tax settings, it is important to maintain the tax system and ensure that it continues to be fit for purpose. Changes in the economic environment, business practice, or interpretation of the law can mean that the tax system becomes unfair, inefficient, complex, or uncertain. The tax system needs to be responsive to accommodate these concerns.

The main policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (*GTPP*). This is a very open and interactive process which helps ensure that tax and social policy changes are well thought through. This process is designed to ensure better, more effective policy development through early consideration of all aspects – and likely impacts – of proposals, and increased opportunities for public consultation.

The GTPP means that major tax initiatives are subject to public scrutiny at all stages of their development. As a result, Inland Revenue and Treasury officials have the opportunity to develop more practical options for reform by drawing on information provided by the private sector and the people who will be affected.

The final stage is a post-implementation review of new legislation and identification of remedial issues that need correcting for the new legislation to have its intended effect. Further information on the GTPP can be found at <http://taxpolicy.ird.govt.nz/how-we-develop-tax-policy>.

The following is a brief summary of the policy measures contained in this Bill. A comprehensive explanation of all the policy items will be included in a *Commentary on the Bill*, that will be available shortly after this Bill is introduced at <http://taxpolicy.ird.govt.nz/bills>.

Cashing-out losses for research and development expenditure

The Bill proposes to allow tax loss-making research and development (*R&D*) companies to “cash out” their tax losses from R&D expend-

iture. They will be able to claim up to 28% (the current company tax rate) of their losses from R&D expenditure in any given year. Because the cash-out is administered through the tax system, it is delivered in the form of a tax credit.

The proposed changes focus on start-up companies engaging in intensive R&D, and are intended to reduce their exposure to market failures and tax distortions arising from the current tax treatment of losses. The time at which those losses are recognised will be brought forward, allowing companies to access these losses early, provided they meet certain criteria. This will help to reduce the bias against investment in these firms produced by current tax settings.

The initiative is intended to provide a temporary timing benefit. When businesses make a return on their R&D, they will be required to repay some or all of the amounts cashed out. New deductions will reinstate corresponding losses that will be available to offset future income.

Eligibility

The proposed eligibility requirements are intended to focus the initiative on start-up firms engaging in intensive R&D. To access the cash-out, the entity must be a loss-making company resident in New Zealand, with sufficient intensity of activity in R&D. The proportion of expenditure on labour that is engaged in R&D is used as a proxy to measure this intensity. If the company is part of a group of companies, some of the eligibility requirements will need to be met as a group. The company must not be a listed company, nor one that is owned by the Crown. It needs to have complied with its tax obligations.

Amount cashed out

The amount of losses that can be cashed out is capped at \$500,000 for the first year, increasing by \$300,000 over each of the next 5 years to \$2 million. The amount that can be cashed out in any year is the lowest of: that cap; the company's net loss for the year; the company's total R&D expenditure for the year; and 1.5 times the company's labour costs for R&D for the year.

Eligible R&D expenditure is more targeted than the general deductibility provisions for R&D expenditure. Expenditure on certain

activities is excluded because they generally take place in a post-development phase, are related to routine work, or have an indeterminate relationship with economic growth. Similarly, some items of expenditure are excluded on the basis that their inclusion could create an economic distortion, inequity between taxpayers in a similar position, or risk compromising the integrity of the initiative.

Tax losses that are cashed-out will be extinguished.

Reinstatement of losses

The initiative is intended to provide a temporary timing benefit. A cashed-out loss can be thought of as an interest-free loan from the government. When the business makes a return on their R&D, they will be required to repay some or all of the amounts cashed out. Those amounts will be reduced by income tax paid by the company from the time that losses were cashed out.

When repayments are made, corresponding losses will be reinstated using a deduction mechanism. Therefore losses will be available to offset future income. Triggers for the reinstatement of losses are: the sale of R&D assets; liquidation, amalgamation, or migration of the company; or the sale of the company.

Imputation

New imputation credits will not be available to a company that has cashed-out a loss until that company has repaid the cashed-out amounts. This maintains neutrality with taxpayers who are not able to cash out losses.

Administration

Companies will need to apply to cash out their tax losses at the time they file their corresponding income tax return. Like other tax credits, cashed-out amounts may be offset against tax payable by the company.

Black hole expenditure

Several amendments are proposed relating to business expenditure that is not immediately deductible for income tax purposes, and also does not form part of the cost of a depreciable asset for income tax purposes and, therefore, cannot be deducted over time as depreci-

ation. Such expenditure is commonly referred to as “black hole” expenditure.

The proposed amendments are primarily targeted at black hole R&D expenditure. The proposed amendments aim to reduce distortions discouraging investment in R&D caused by current tax law, under which development expenditure incurred subsequent to the recognition of an intangible asset for accounting purposes is generally unable to be deducted for income tax purposes. The proposed amendments seek to allow capitalised development expenditure to be either deducted over time as depreciation (where the R&D results in a depreciable intangible asset) or deducted upon the intangible asset being written off for accounting purposes (where the R&D does not result in a depreciable intangible asset).

Other proposed amendments include:

- making registered designs, applications for the registration of a design, and copyright in an artistic work that has been applied industrially, depreciable for income tax purposes. This will enable capital expenditure on these assets to be deducted over their lives, thereby reducing tax distortions against investment in these assets; and
- clarifying that capitalised expenditure incurred by a person in the successful development of software for use in their own business is depreciable.

GST and bodies corporate

An amendment to the Goods and Services Tax Act 1985 is proposed to address uncertainty in the application of the GST rules to bodies corporate. The proposed amendment has the effect of giving bodies corporate the choice of registering for GST.

Currently, most bodies corporate are not registered for GST and Inland Revenue’s historic position has been that bodies corporate are not allowed to register. In recent years, however, Inland Revenue has been asked to consider whether bodies corporate should be able to register for GST. To answer this question, Inland Revenue undertook a legal analysis and came to a view that, under the current law, a body corporate could be considered to make supplies for consideration to its owners. A consequence of this view is that a body corporate mak-

ing supplies exceeding the \$60,000 threshold would be required to register for GST.

Given the historic position, the new interpretation may have an adverse impact on thousands of property owners, as it would require a large number of bodies corporate to register for GST. Given that bodies corporate are primarily tax neutral for GST purposes, the government is largely indifferent as to whether a body corporate is registered or not.

The proposed amendment clarifies that, for GST purposes, a service provided by a body corporate to a member is a supply for consideration. However, the value of such a supply is not included in the total value of the body corporate's supplies when determining whether the body corporate is required to register. The effect is that bodies corporate have the option to register if they do not make significant supplies to non-members. One result is that bodies corporate that are not currently registered will not have to do so. On the other hand, bodies corporate that have already registered for GST are able to remain registered.

The proposed amendment also includes rules that protect the tax base from possible adverse consequences of allowing this choice. An output tax liability is imposed for any funds held by a body corporate when the body corporate becomes registered. This prevents a body corporate from obtaining a tax advantage by accumulating untaxed funds while it is not registered and then registering so that it can claim input tax deductions when it spends the funds. The proposed amendment ensures bodies corporate remain GST neutral.

A 4-year lock-in rule is also proposed to prevent bodies corporate from continually changing their registration status.

Child support reforms

The Bill proposes changes to simplify the administration of the child support scheme, and in some cases, reduce compliance costs.

The definition of *social security benefit* (and *beneficiary*) is changed to exclude sole parents who are full-time students and who claim a *Jobseeker Support* payment on the grounds of student hardship between academic years. For child support purposes, they will be treated in the same manner as full-time students receiving a student allowance.

The compulsory automatic deduction of child support from wages for liable parents is to be replaced with a voluntary wage deduction process (although compulsory deductions remain for parents in default and social security beneficiaries). This will reduce compliance costs for some employers and provide greater choice for compliant liable parents to choose the method of payment that best suits them. A liable parent can also request that voluntary wage deductions stop (unless they are in default or a social security beneficiary).

The provisions for prescribed payments to be made to meet child support liabilities are to be repealed. The provisions were to allow recognition of certain payments in specific situations and required all parties to agree to the payment. Instead, if liable parents and receiving carers agree, they can have all or some of the child support liability “uplifted” from Inland Revenue and payment treated as a private matter.

The definition of *adjusted taxable income* is simplified by removing reference to additional adjustments of the type used in the definition of *family scheme income*, such as income from certain trusts. The administrative review process remains available for people to request that other types of income be recognised in the child support formula assessment. The definition of *adjusted taxable income* is also made subject to the provisions that allow a person to make an estimate of their taxable income.

The administrative review process will also be expanded to allow for the offsetting of debt. This replaces a Commissioner discretion to offset one liability against another in specific situations. The administrative review process allows for the consideration of offsetting debt to be made where this is just and equitable and in the best interest of the child and utilises existing formula departure rules.

The administrative review ground for recognising a re-establishment cost situation is also being amended to clarify its intent. The amount that can be taken into account is limited to the amount of income from additional work that has been, is, or will be used to re-establish a person following separation, up to a maximum of 30% of their adjusted taxable income. The section also makes it clear that it can apply to receiving carers as well as liable parents.

The Bill also makes changes to the process for ending a formula assessment. Previously, this could be requested by the receiving carer only as long as they were not a social security beneficiary. How-

ever, under the new formula assessment, the assessment is now based around the child and it may be unclear who the receiving carer is due to estimates of income and changes in shared care arrangements. This could mean elections to end are later overturned, with retrospective liabilities being imposed and additional cost and debt for all parties. The new process now requires the agreement of all receiving carers and liable parents with recognised care of a child for an election to end to be accepted, and confirms that the decision will not be undone based on a later determination of who is a receiving carer.

The changes also seek to reduce child support debt by clarifying the penalty and write-off rules, and bringing forward the commencement of some debt write-off provisions. Specifically:

- underestimation penalties for an estimate of income are to be removed for child support years starting on or after 1 April 2015;
- clarifying that some penalty debt write-off can occur if some of the benefit component of the core debt owed to the Crown is written-off;
- penalty write-off under section 135GA can also be provided on the grounds of serious hardship.

The Bill also seeks to ensure that the policy objectives in the *Child Support Amendment Act 2013* are achieved by making a number of remedial amendments. These include clarifying:

- the process and requirements for requesting a child support assessment and when an application can be refused;
- the information to be included on a notice;
- the interactions between a formula assessment and a voluntary agreement;
- who can make objections or be a party to proceedings.

Consequential changes are also proposed including transitional provisions to ensure pre-2015 assessments can continue to be considered under the relevant provisions, and updating the names of welfare benefits to reflect changes to the Social Security Act 1964.

Foreign superannuation

The Bill proposes various remedial amendments to the rules governing the tax treatment of income received by individuals from a superannuation scheme resident outside New Zealand.

Some of the changes apply to a person who has an investment in a foreign superannuation scheme that would usually give rise to foreign investment fund (*FIF*) income for the person in the period before 1 April 2014. A person who makes the investment while non-resident and receives in that period payments from the scheme, while resident, is treated as meeting their tax obligations for the investment and the period if the payments are solely of a pension and the person provides the Commissioner with returns of income for the payments and for the appropriate income years by the due date.

Changes are also made to requirements regarding the residence of people affected by the rules, to take into account the effect of double tax agreements on the tax status of a person in New Zealand.

A resident who acquires an interest in a foreign superannuation scheme may not have FIF income from the interest because the value of the person's interests in FIFs is below the threshold for the application of the FIF rules. Currently, the tax obligations of such a person depend on the legal form of the superannuation provider. Changes are made to simplify those obligations; the person may use the schedule method, which is one of 2 methods currently restricted to people who acquire an interest in foreign superannuation while non-resident and do not choose to have the interest come under the FIF rules.

Other changes provide that interests in registered Australian superannuation schemes do not give rise to FIF income and confirm that a transfer of an interest in a foreign superannuation scheme that was acquired while non-resident into a non-Australian foreign superannuation scheme does not give rise to an attributing interest in a FIF.

Controlled foreign companies and foreign investment funds

The Bill proposes changes to the controlled foreign company (*CFC*) rules, and FIF rules, governing the attribution of income to the owners of interests in overseas entities that are CFCs and FIFs. Some entities and individuals that own interests in a FIF, and meet

various requirements, may calculate their income from the FIF using the fair dividend rate method. There are 2 variants of the method and individuals with access to the information required for the more complex method may choose which variant method they use. It is proposed that such individuals be required to use a variant method for 4 income years after changing from the other variant. It is also proposed that people who can choose between variant methods be allowed to make a choice for each FIF.

Another change proposed relates to the method by which a person calculates their income from a CFC. Currently, the person is allowed to take into account, as a deduction from the CFC's income, all expenditure of the CFC on ongoing supplies. By contrast, the deduction allowed to a resident company would be reduced by prepayments relating to supplies in a future income year. It is proposed that the formula giving the income from a CFC be changed to allow for prepayments.

Currently, the income of a person who provides personal services overseas through a CFC has income attributed to them under the CFC rules. A person who provides personal services overseas through a foreign entity other than a CFC is attributed income under another, similar, method. It is proposed that if a person provides services through a CFC, the person who makes a return of the attributed income or loss from the CFC, who is usually the person providing the services, may choose which method applies to attribute the income. The method cannot be changed in a later return.

A further proposed change is to the exemption allowed in the calculation of FIF income for an interest in a FIF resident in Australia. The exemption is available if the interest held by a person in the Australian FIF averages at 10% or more over the year. It is proposed that the availability of the exemption depends on the level of the person's interest averaged over the total period in the year during which the person holds an interest of more than zero.

Two changes are proposed to the CFC test grouping rules. Providing certain conditions are met, the test grouping rules allow a person to elect to group a CFC together with other CFCs and determine whether the CFC is a non-attributing active CFC by testing the whole test group rather than the individual CFC. The first proposed change to these rules will allow a person who acquires or disposes of a group of CFCs part way through an accounting period to group those CFCs

together as a test group for an accounting period, provided that the person has a sufficient ownership interest in all of the CFCs for the part of the accounting period in which they hold the interest. The second proposed change to the test grouping rules is intended to stop a person from opting in and out of test groups in different accounting periods to minimise income when the CFC is in a test group and to maximise losses when the CFC is not in a test group.

The Bill also proposes various minor technical changes to the CFC and FIF rules that do not change the effect of the rules.

Grace period for deregistered charities

The Bill proposes to delay the application date of the net assets tax rules for any charities that are deregistered (removed from the Charities Register) which have housing as a purpose or activity from 1 April 2015 to 1 April 2017. This will extend the net assets tax grace period to ensure that any current community housing providers which are removed from the Charities Register are not subject to the new rules relating to the net assets tax for deregistered charities.

Working for Families tax credits

Income equalisation scheme

The definition of *family scheme income* which is used to determine social policy recipients' entitlements was broadened on 1 April 2011. Deposits made by persons and their associated companies and trusts into the main income equalisation scheme were included in the broader definition and withdrawals by the person excluded, to prevent double counting. The proposed amendments will ensure that funds deposited into a main equalisation scheme by associated companies and trusts do not reduce a person's Working for Families (*WFF*) tax credit entitlement a second time when they are withdrawn.

Scholarships and bursaries

A number of payments that are treated as exempt from income tax are also not intended to affect Inland Revenue social policy entitlements. Two of these payments are scholarships and bursaries for attendance at educational institutions. Although these payments are of a similar nature, on 1 April 2011, "scholarship" but not "bursary" was added to the list of payments exempt from "family scheme income". An

amendment is proposed to ensure that bursary payments do not reduce people's WFF tax credit entitlements.

Family scheme income statements

Inland Revenue sends out notices of entitlement (*NOE*) to confirm a person's social policy entitlements and obligations. The person is then required to give Inland Revenue a statement that confirms or adds to the information in the *NOE*, including the family scheme income of their spouse, civil union partner, or de facto partner. However, this requirement does not work if the person is unaware of the income details of the other person. An amendment is proposed to enable a person and their spouse, civil union partner, or de facto partner to submit separate family scheme income declaration forms.

Working for Families Tax Credit details not needed

Currently WFF recipients are required to give the Commissioner details of each WFF tax credit paid to them in each tax year. However, Inland Revenue does not request or need to acquire this information from them. The proposed amendment will remove the requirement to provide this information.

Schedule 32 donee status

The Bill proposes to amend the Income Tax Act 2007 by adding 10 charities to the list of donee organisations in schedule 32 and renaming an existing charity on the list.

It is proposed to give Adullam Humanitarian Aid Trust; Bicycles for Humanity, Auckland; Face Nepal Charitable Trust Board New Zealand; Hagar Humanitarian Aid Trust; Himalayan Trust; International Needs Humanitarian Aid Trust; Mercy Ships New Zealand; Orphans Aid International Charitable Trust; ShelterBox New Zealand Charitable Trust; and So They Can donee status under schedule 32 of the Income Tax Act 2007. Monetary gifts to these charities may qualify for tax benefits.

It is also proposed that Aotearoa Development Cooperative, which already has donee status, be renamed to ADC Incorporated (Aotearoa Development Cooperative).

Simplifying filing requirements for individuals

The Bill proposes to repeal legislation that was enacted in November 2012 but which is not due to take effect until the 2016-17 tax year. The 2012 legislation was aimed at simplifying the filing requirements for individual salary and wage earners (the *SFRI legislation*).

The SFRI legislation consists of 2 initiatives:

- 4 + 1 square-up: individuals who are not required to file a tax return, but who choose to do so anyway, will be required to file tax returns for the previous 4 years in addition to the year in which they have chosen to file; and
- Working for Families delinking: the link between the receipt of WFF tax credits and the requirement to file an annual income tax return will be removed.

These initiatives were seen as an indirect solution to the problem of inaccurate PAYE deductions during the year, leading to the need to square-up and file a tax return at the end of the year.

The policy underlying the SFRI legislation was set 3 years ago, when it was not clear how Inland Revenue's Business Transformation programme would unfold. A high-level review of the implementation of the SFRI initiatives has concluded that the initiatives are no longer a sound investment, given Inland Revenue's Business Transformation programme will address the issue of inaccurate PAYE deductions directly.

Exceptions to requirement to file a return of income

Schedular payment filing exemption

The Bill proposes to limit the situations in which a person who receives schedular income is required to file a tax return. Currently, a person receiving an amount of schedular income must file a return if the person has assessable income of more than \$200. It is proposed that the person be required to file a return if the schedular income is more than \$200, with the requirement not depending on the amount of the person's assessable income.

Income statements for IR 56 taxpayers

The Bill will also ensure the Commissioner is not required to issue an income statement to employees who do not have to file an income tax return when their employer fails to withhold and pay PAYE to Inland Revenue.

Employee's obligations

An earlier amending Act replaced, with delayed effect, a rule governing the situations in which an employee is not required to file a return of income. Under the current form of the new rule, a person must file a return if the person has assessable income of more than \$200 that is subject to the PAYE rules and for which the obligations of the employer or PAYE intermediary are not met. The Bill proposes to change the latter part of this rule to reinstate the earlier provision so that a person must file a return if the person has assessable income of more than \$200 that is subject to the PAYE rules and for which the obligations of the person are not met.

Tax pooling

The current tax pooling rules only allow taxpayers to withdraw sufficient money from a tax pool to cover any core tax owing as a result of an amended assessment or the resolution of challenge proceedings. This means that if an amount of interest is owed that is in addition to the core tax, the taxpayer will not be able to withdraw enough money to cover the core tax plus the interest. This can result in further interest accruing on the remaining amount.

The proposed amendment will enable taxpayers to access money from a tax pool to pay interest imposed as a result of an amended tax assessment or the resolution of challenge proceedings.

Provisional tax: GST option

The proposed amendment applies to a person who has chosen to use the GST ratio method of determining provisional tax for a tax year. The proposed amendment clarifies that the person must stop using the GST ratio method if:

- they file a return of income during that tax year; and
- the residual income tax calculated in that return of income is outside the range of \$2,501–\$150,000.

Depending on when the return of income is filed, the taxpayer must then apply either the estimation method or a standard method for calculating their provisional tax.

Bad debt deductions and the capital limitation

The proposed amendment corrects an unintended legislative change made in rewriting income tax legislation in relation to the bad debt deduction rule and the capital limitation.

The amendment clarifies that a bad debt deduction is allowed for a person carrying on a business of holding or dealing in financial arrangements for both accrued interest and the principal amount of a debt if that loan is entered into in the normal or ordinary course of business. This amendment also ensures that the application of the capital limitation must continue to be considered in determining if a bad debt deduction is allowed for a loan entered into by a business holder or dealer outside the ordinary course of business.

This amendment does not alter the bad debt deduction rule in relation to debts between associated people, for which a bad debt is allowed only for accrued interest and not for the principal amount of the debt.

*Financial Markets Conduct Act: related
changes*

The Bill proposes to remove the requirement for certain public unit trusts to make regulated offers under the Financial Markets Conduct Act 2013. This provision was originally introduced to replace the requirement that the public unit trust offers securities to the public under the Securities Act 1978, which has been repealed.

A regulated offer under the Financial Markets Conduct Act is not directly equivalent to an offer of securities under the former Securities Act. To ensure that unit trusts that previously met the public unit trust definition continue to do so, the requirement to make regulated offers has been removed, with appropriate changes to ownership thresholds to ensure such public unit trusts are widely held (there being no equivalent concept of offers to the public in the Financial Markets Conduct Act 2013).

FBT on employment-related loans

The Bill proposes an amendment to enable employers who are in the same group of companies as a person in the business of lending money to the public, to apply the market interest rate method contained in section RD 35 to calculate the fringe benefit arising from an employment-related loan.

When the market interest rate method was introduced, only persons in the business of lending money to the public were eligible to use the method, as it required the person to track market interest rates. Other persons were not expected to be able to do so without incurring significant compliance costs. However, non-lenders may be closely associated with such lenders, and have access to their information on interest rates. Such non-lenders should also have the option of using the market interest rate method.

Annual rates

The Bill sets the annual rates of income tax for the 2015–16 tax year, at the same rates that apply for the 2014–15 tax year.

Remedial items

A number of remedial matters are proposed in the Bill. In addition to fixing minor faults of expression, readers' aids, and incorrect cross-references, the following specific issues are addressed:

- technical changes in the thin capitalisation rules to the provision that deems a company's worldwide group to be the same as its New Zealand group, ensuring the provision operates as originally described;
- ensuring the lower tax rate on unimputed dividends of 15% for investors in a foreign investment portfolio investment entity applies only for investors residing in countries with which New Zealand has a full double tax agreement and not simply a tax information exchange agreement;
- allowing a trust to continue to be treated as a complying trust after the settlor migrates from New Zealand if, since that time, the trustee has continued to comply fully with its New Zealand income tax obligations;
- clarifying that a subscription paid, that does not confer any rights arising from membership, will only qualify as a charit-

able or other public benefit gift if it meets the same criteria as a gift would have to meet;

- clarifying that if a taxpayer is late in issuing a disputes document, the Commissioner’s response period starts from the time when it is decided that the taxpayer’s late dispute document is allowed;
- allowing truncation in a taxpayer-initiated dispute after the taxpayer has issued a statement of position without requiring the Commissioner to issue a statement of position;
- removing the requirement for agricultural, horticultural, or viticultural employers to provide certain information in their Employer Monthly Schedule in relation to schedular payments made to contractors who hold an exemption certificate or special tax rate certificate;
- removing the requirement for the Commissioner to issue determinations on cost of timber;
- ensuring amounts of income or expenditure that arise when a financial arrangement ends are spread correctly under the financial arrangement rules;
- ensuring that on an amalgamation, income and expenditure under a financial arrangement are appropriately allocated between the amalgamating company and the amalgamated company;
- further amendments to ensure that the bad debt rules work as intended;
- amendments to the mixed use asset rules introduced in 2013;
- amendments to the asset transfer rules in subparts FB and FC;
- further amendments for herd scheme livestock held by a company—where annual changes in value are treated as capital gains to prevent them from being taxed;
- correcting unintended legislative changes made in rewriting the definitions of *mining permit* and *petroleum exploration expenditure* to ensure they apply as intended to petroleum privileges issued under the Petroleum Act 1937, a number of which continue to be in existence;
- ensuring that recently introduced provisions relating to the taxable value of accommodation provided by religious organisations to their ministers of religion apply from 1 July 2013, as

- originally intended, and clarifying the meaning of *remuneration* for the purposes of those provisions;
- excluding from the definition of *transitional resident* a person who chooses not to be a transitional resident;
 - ensuring approved unit trusts continue to be taxed as a trust under the Income Tax Act 2007;
 - repealing references to *new start grants* in the Inland Revenue Acts as they are no longer part of the suite of responses that the government uses for a primary sector adverse event;
 - changing 2 references to the defined term *tax position*, where the intended meaning differs from the usual defined meaning;
 - widening the income tax exemption for a Tertiary Education Institute (*TEI*) to include the income earned by a subsidiary for the TEI;
 - ensuring transactions involving an exchange for non-monetary consideration are included, where required, in provisions that currently use the terms *sale*, *buy*, *purchase*, and variations of these terms;
 - removing a specific rule relating to expenditure on items of commercial fit-out from a subpart intended for general provisions relating to deductions and re-enacting the rule in a more appropriate place.

Consultation

The Department of Internal Affairs (Charities Services), the Department of Prime Minister and Cabinet, the Ministry of Business, Innovation and Employment, the Ministry of Education, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, the Ministry of Social Development, New Zealand Police Vetting Service, Tertiary Education Commission, The Treasury (Tax Strategy Team), BusinessNZ, Chartered Accountants Australia New Zealand, Corporate Taxpayers Group, the Inter Church Working Party on Taxation, New Zealand Bankers' Association, New Zealand Law Society, the Community Housing Association of Aotearoa, the Trustee Corporations Association of New Zealand, Deloitte, EY, KPMG, and PwC were consulted on relevant aspects of the proposals in the Bill.

Departmental disclosure statement

Inland Revenue is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=7>.

Regulatory impact statement

Inland Revenue produced regulatory impact statements to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 gives the title of the Act.

Clause 2 gives the dates on which the clauses come into effect.

Part 1

Child support remedial matters

With some exceptions, *Part 1* comes into force on the day after the date on which the Bill receives the Royal assent.

The following clauses come into force on 1 April 2015:

- *clauses 5, 49(1) and (2), and 50(2) to (7) (see notes on Interpretation, etc and on Application, transitional, and savings provisions):*
- *clause 15 (see notes on Living allowance):*
- *clauses 23 and 28(2) (see notes on Penalties for underestimation of taxable income).*

Because the Bill is not expected to receive the Royal assent until after 1 April 2015, the clauses that come into force on that date are expected to have retrospective effect.

Clauses 31(2), 40(3) and (4), and 41(2) come into force on 1 April 2016.

Clauses 52, 56, and 57 come into force on the date on which the Bill receives the Royal assent.

Amendments to Child Support Act 1991

Clause 3 sets out the clauses that affect the *Child Support Act 1991* (the *1991 Act*).

The amendments are to the 1991 Act as amended by Part 1 of the *Child Support Amendment Act 2013* (the *2013 Amendment Act*) and sections 206 to 215 of the *Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014* (the *2014 Taxation Act*). The amendments made by Part 1 of the 2013 Amendment Act and sections 206 to 215 of the 2014 Taxation Act (with some exceptions) come into force on 1 April 2015. Unless otherwise stated, a reference in the Bill or the notes to a provision of the 1991 Act is to that provision as it will stand on 1 April 2015 once all the amendments made by Part 1 of the 2013 Amendment Act and sections 206 to 215 of the 2014 Taxation Act have come into force.

The notes have been grouped under subject headings as follows:

- Interpretation, etc—*clauses 4 and 5*:
- Applications for formula assessments—*clauses 6 to 9*:
- Elections to end formula assessments—*clauses 10, 11, 24(3), 28(1), and 47*:
- Minimum annual rate of child support—*clauses 12 and 36*:
- Adjusted taxable income—*clauses 13, 14, and 17 to 22*:
- Living allowance—*clause 15*:
- Overseas income—*clause 16*:
- Penalties for underestimation of taxable income—*clauses 23 and 28(2)*:
- Acceptance of voluntary agreements—*clause 24(1) and (2)*:
- Notices of assessments—*clauses 25 and 26*:
- Proceedings before Commissioner under subpart 3 of Part 5A of 1991 Act—*clause 27*:
- Objections to assessments—*clause 29*:

- Grounds for departure from provisions of the 1991 Act relating to formula assessments—*clauses 30, 31(1) and (2), 40, and 41*:
- Proceedings before Commissioner under Part 6A of 1991 Act—*clause 31(3)*:
- Proceedings before Commissioner under Part 6B of 1991 Act—*clauses 32 to 35*:
- Proceedings before Family Court under Part 7 of 1991 Act—*clauses 37, 38, 39, and 42*:
- Method of payment of financial support—*clauses 43 to 46*:
- Secrecy—*clause 48*:
- Application, transitional, and savings provisions—*clauses 49 and 50*.

Interpretation, etc

Clause 4 amends section 2 of the 1991 Act, which is the main interpretation provision of that Act.

Clause 4(1) is consequential on *clause 14(1)* (see notes on *Adjusted taxable income*).

Clause 4(2) replaces the definition of *receiving carer* to clarify that the term covers persons entitled to receive child support under section 58(1) of the 1991 Act (voluntary agreements) or section 68(1) of that Act (court maintenance orders).

Clause 4(3) and (4) amends the definition of *social security benefit* to exclude from the scope of that definition full-time students who are in receipt of jobseeker support between academic years. This means that such students will no longer be covered by the various special rules in the 1991 Act applying to social security beneficiaries. See, for example, section 9 of the 1991 Act, which requires social security beneficiaries to make applications for formula assessments of child support. This change has effect for periods starting on or after 1 October 2015.

Clause 5 is consequential on *clause 49* (see notes on *Application, transitional, and savings provisions*).

Applications for formula assessments

Clauses 6 to 9 make amendments to the 1991 Act in relation to applications for formula assessments of child support.

Section 8 of the 1991 Act precludes a parent or carer of a child from applying for a formula assessment of child support in respect of the child if the parent or carer is living in a marriage, civil union, or de facto relationship with the parent of the child who would be liable to pay the child support. This rule is replaced by *new section 13A*, which is inserted into the 1991 Act by *clause 9* and requires the Commissioner to refuse to make a formula assessment if the applicant is living in a marriage, civil union, or de facto relationship with a parent of the child, unless the applicant is a parent and the child has—

- a parent with whom the applicant is not living in a marriage, civil union, or de facto relationship; or
- a non-parent carer with whom the applicant is not living in a marriage, civil union, or de facto relationship and who the Commissioner determines is a receiving carer.

New section 13A also introduces a rule that the Commissioner must refuse to make a formula assessment if the applicant is a non-parent carer of the child and the Commissioner determines that the applicant is not a receiving carer.

A non-parent carer of a child is a receiving carer for the purposes of a formula assessment in respect of the child if he or she provides at least 35% of ongoing daily care to the child (*see* section 17(4) of the 1991 Act). The consequences of a person being a receiving carer under a formula assessment are set out in section 18(2) of the 1991 Act.

The amendments made by *clauses 6, 7, and 8(2)* are consequential on *new section 13A*.

The amendment made by *clause 8(1)* broadens the Commissioner's power under section 13(2) of the 1991 Act to require additional information from applicants so that the power is not specifically limited to the purpose of ascertaining the matters listed in section 13(1). In particular, the Commissioner may need additional information in order to ascertain whether to refuse to make a formula assessment in accordance with *new section 13A*.

Elections to end formula assessments

Clauses 10, 11, 24(3), 28(1), and 47 relate to section 27 of the 1991 Act. Section 27 entitles a receiving carer of a child under a formula assessment to elect to end payments to the carer in respect of the child under the formula assessment, unless the carer is a social security beneficiary.

Clause 11 replaces section 27. While retaining a receiving carer's right of election by notice to the Commissioner, *new section 27* changes the rules associated with elections as follows:

- an election must be accepted by the Commissioner in order to be effective. *New section 27(2)* provides that the Commissioner must accept an election if satisfied that the election qualifies for acceptance;
- the election qualifies for acceptance if the person who makes it (*person P*) is a receiving carer of the child (*child C*) under the formula assessment and every other recognised carer of child C agrees to the election (*see new section 27(3)*);
- the election does not qualify for acceptance if a recognised carer of child C is a social security beneficiary on the day on which the acceptance would otherwise become effective (*see new section 27(4)*). This does not cover cases where the only benefit being received by the recognised carer is unsupported child's benefit in respect of a child other than child C;
- the term recognised carer is defined in *new section 27(6)* to mean a receiving carer of child C under the formula assessment or a parent of child C who provides at least 28% of on-going daily care to child C. The time for determining whether a person is a recognised carer of child C is the time the Commissioner receives the notice of election;
- *new section 27(7)* provides that the Commissioner's acceptance of the election is final, unless overturned in accordance with *new section 27(8) or (9)*. *New section 27(8)* provides that the acceptance may be overturned on an objection to the Commissioner or an appeal to a court under Part 6 or 7 of the 1991 Act wholly on the basis of information that is in the Commissioner's possession at the time of the acceptance. *New section 27(9)* provides that the Commissioner may overturn the acceptance if a person who the Commissioner regarded as being

a recognised carer of child C when accepting the election is a social security beneficiary as referred to in *new section 27(4)* on the day the acceptance becomes effective.

Clause 10 amends section 25 of the 1991 Act to set out the effect of the Commissioner's acceptance of an election under *new section 27*. The liability of all liable parents to pay child support under the formula assessment in respect of child C is ended, including liability in relation to carers other than person P.

The amendments made by *clauses 24(3) and 47* are consequential on *new section 27*.

Clause 28(1) amends section 90(1) of the 1991 Act to confer a right of objection against a decision of the Commissioner to accept, or not to accept, an election under *new section 27*.

Minimum annual rate of child support

Clause 12 amends section 32 of the 1991 Act, which relates to the minimum annual rate of child support that is payable by a liable parent in respect of his or her children. The amendment clarifies that section 32 is only concerned with children in respect of whom child support is payable under a formula assessment, as opposed to a voluntary agreement.

A similar amendment is made to section 98(2A) of the 1991 Act by *clause 36*.

Adjusted taxable income

Clauses 13, 14, and 17 to 22 relate to the calculation of a parent's adjusted taxable income for a child support year, which is used to determine a parent's liability to pay, or entitlement to receive, child support in the year under a formula assessment.

Clause 14(1) amends section 35 of the 1991 Act, which sets out how a parent's adjusted taxable income is to be calculated. For this purpose, the 2013 Amendment Act provided for adjustments to be made in line with subpart MB of the *Income Tax Act 2007* relating to family scheme income so that, for example, income from certain trusts is included. The amendment made by *clause 14(1)* removes the requirement for these adjustments, which was due to take effect for the child support year starting on 1 April 2016.

The amendments made by *clauses 13, 17 to 20, and 21(3) and (4)* are consequential on the amendment made by *clause 14(1)*.

The amendment made by *clause 14(2)* clarifies that section 35 of the 1991 Act is subject to sections 40AA to 44A, which provide an alternative way of determining a parent's adjusted taxable income by reference to estimated taxable income (*see notes below on Penalties for underestimation of taxable income*).

The amendments made by *clauses 21(1) and (2) and 22* are minor drafting clarifications.

Living allowance

Clause 15 amends section 35A of the 1991 Act. Section 35A sets out how to calculate a parent's living allowance, which is used to determine a parent's liability to pay, or entitlement to receive, child support under a formula assessment.

The amendment updates references to certain social security benefits to take account of the changes to social security benefits made by the *Social Security (Benefit Categories and Work Focus) Amendment Act 2013*. The amendment is based on the transitional provision contained in clause 16 of Schedule 32 of the *Social Security Act 1964*, which provides for references in legislation to various former benefits to be read as references to various new benefits.

Overseas income

Clause 16 amends section 39A of the 1991 Act, which permits the Commissioner to take account of a parent's overseas income in making a formula assessment of child support.

The 2013 Amendment Act amended section 39A to clarify that the Commissioner may take into account overseas income whether or not it is taxable overseas. The amendments made by *clause 16* are consequential on the amendments made by the 2013 Amendment Act.

Penalties for underestimation of taxable income

Clause 23 repeals section 45 of the 1991 Act. Section 45 relates to sections 40 and 41, under which a parent may elect to have his or her adjusted taxable income for a child support year (*see notes on Adjusted taxable income*) determined by reference to the parent's estimate of what his or her taxable income will be in the year. After

the end of the year, sections 44 and 44A require the parent's estimate of his or her taxable income to be reconciled with his or her actual taxable income for the year. If the parent overestimated or underestimated his or her taxable income, adjustments may be made to his or her liability for, or entitlement to, child support. Section 45 imposes additional penalties on a parent in certain cases if the parent underestimates his or her taxable income.

The amendment made by *clause 28(2)* is consequential on the repeal of section 45.

The repeal of section 45 does not apply in relation to estimates of taxable income for child support years ending before 1 April 2015. *See notes on Application, transitional, and savings provisions.*

Acceptance of voluntary agreements

Clause 24(1) and (2) amends section 51 of the 1991 Act, which deals with the issue of whether the Commissioner may accept under Part 3 of that Act a voluntary agreement for child support in respect of a child if there is a formula assessment in force in respect of the child. The amendments extend the scope of section 51 to cover any formula assessment in respect of the child and not just a formula assessment under which one party to the voluntary agreement is required to pay child support to another party to the voluntary agreement.

Notices of assessments

Clauses 25 and 26 amend, respectively, sections 88 and 88A of the 1991 Act. Those sections set out the minimum amount of information that the Commissioner must provide in a notice of assessment relating to a formula assessment of child support. The amendments are aimed at giving the Commissioner more flexibility to leave out information that is not relevant to the assessment.

Proceedings before Commissioner under subpart 3 of Part 5A of 1991 Act

Clause 27 amends section 89L of the 1991 Act, which is in subpart 3 of Part 5A of that Act. Part 5A contains various exemptions from liability to pay child support.

Under subpart 3 of Part 5A, applications may be made to the Commissioner for an exemption not to apply where it would otherwise

apply and, where an exemption is not to apply where it would otherwise apply, for a determination by the Commissioner that some or all of the provisions of the 1991 Act relating to formula assessment be departed from in relation to a child. The amendment to section 89L clarifies that the determinations that the Commissioner may make on an application are not limited by the terms of the application.

Objections to assessments

Clause 29 amends section 91 of the 1991 Act, which sets out a person's rights to object to an assessment made by the Commissioner under that Act.

The amendments made by *clause 29(1) and (2)* relate to objections to amended assessments. Currently, section 91(3) (which is repealed by *clause 29(4)*) limits the scope of such objections to cases where the amendment of the assessment imposes a new or an increased liability on a person. The amendments made by *clause 29(1) and (2)* broaden that scope to cover more generally matters attributable to the amendment of the assessment. For example, an objection might now be made where an amendment to an assessment lowers the amount of child support that is payable to a carer of a child.

The amendment made by *clause 29(3)* relates to the persons who can object to an assessment as set out in section 91(2) of the 1991 Act. Section 91(2) refers to any person “who is affected by the assessment”. *Clause 29(3)* amends section 91(2) so that it specifically refers instead to persons to whom the Commissioner is required to give notice of the assessment under section 88 or 89 of the 1991 Act. In general terms, those persons are the persons who are required to pay, or are entitled to receive, child or other financial support by virtue of the assessment.

Grounds for departure from provisions of 1991 Act relating to formula assessments

Clauses 30, 31(1), 40(1), (2), and (5), and 41(1) relate to section 105 of the 1991 Act. Under sections 104 to 106 of the 1991 Act, the Family Court may, in relation to the payment of child support in respect of a child, make an order departing from the provisions of the 1991 Act relating to formula assessment if 1 or more of the grounds set out in section 105(2) exist and it is just and equitable to make the

order. The Commissioner has a corresponding power under Part 6A of the 1991 Act, which also operates by reference to section 105(2). Section 37 of the 2013 Amendment Act inserted a new ground into section 105(2) of the 1991 Act relating to “re-establishment costs situations”, namely, situations where the adjusted taxable income of a parent of a child for a child support year (*see notes on Adjusted taxable income*) includes income—

- that is from additional work that the parent performs after the separation of the child’s parents; and
- that has been used, or will be used, by the parent to re-establish himself or herself following the separation.

The new ground inserted by section 37 of the 2013 Amendment Act was due to come into force on 1 April 2016.

The amendments made by *clauses 40(1), (2), and (5) and 41(1)* replace the amendment made by section 37 of the 2013 Amendment Act to clarify 2 restrictions placed on the new ground.

First, the additional work must be performed within 3 years after the separation (subject to a potential extension of up to 3 months where there is an attempt at reconciliation).

Secondly, an order made on the new ground may not exclude from the parent’s adjusted taxable income an amount that exceeds the lesser of the following:

- the income from the additional work that is used, or will be used, by the parent for re-establishment costs:
- 30% of the parent’s adjusted taxable income.

The new ground will apply to child support for the child support year starting on 1 April 2016 and later child support years.

The amendments made by *clauses 30 and 31(1)* are consequential on *clauses 40(1), (2), and (5) and 41(1)*.

Clauses 31(2), 40(3) and (4), and 41(2) also relate to section 105 of the 1991 Act.

Section 28 of the 2013 Amendment Act inserted into the 1991 Act, with effect on 1 April 2015, new section 152B covering cases where 2 parents are each liable to pay the other an amount of child support. The Commissioner is given power to offset one liability against the other at any time before both amounts become due and payable. Section 57 of the 2013 Amendment Act then replaced, with effect on

1 April 2016, new section 152B with another new section 152B that broadened the scope of the Commissioner’s power to offset liabilities to pay child support.

New section 152B, as inserted by section 28 of the 2013 Amendment Act, is now going to be retained and section 57 of the 2013 Amendment Act repealed (*see clause 58*). *Clause 40(3) and (4)* inserts, with effect on 1 April 2016, a new ground into section 105(2) of the 1991 Act for cases where it is just and equitable to offset one liability against the other if 2 persons are each liable to pay in respect of the other an amount of child support under a formula assessment (whether or not those amounts have become due and payable).

Clause 41(2) inserts into the 1991 Act *new section 106B*, which gives examples of the liabilities that may be offset under the new ground and also sets some restrictions. Liabilities existing before 1 April 2016 may be offset.

Clause 31(2) makes a consequential amendment.

*Proceedings before Commissioner under Part
6A of 1991 Act*

Clause 31(3) amends section 96D of the 1991 Act, which is in Part 6A of that Act. Under Part 6A, applications may be made to the Commissioner for a determination that some or all of the provisions of the 1991 Act relating to formula assessment be departed from in relation to a child. The amendment to section 96D clarifies that the determinations that the Commissioner may make on an application are not limited by the terms of the application.

*Proceedings before Commissioner under Part
6B of 1991 Act*

Clauses 32 to 35 amend provisions contained in Part 6B of the 1991 Act. Under Part 6B, the Commissioner may conduct proceedings in relation to a parent of a child (the *subject parent*) with a view potentially to making a determination that some or all of the provisions of the 1991 Act relating to formula assessment be departed from in relation to the child.

Section 96Y of the 1991 Act entitles receiving carers of the child or a parent who is not the subject parent to elect to become a party to the proceedings or to elect that the proceedings be discontinued.

Clause 33 amends section 96Y to provide that proceedings cannot be discontinued unless all the persons who are entitled to elect that they be discontinued do so. The amendments also clarify that the subject parent is not entitled to discontinue the proceedings.

Clauses 32, 34, and 35 make consequential amendments.

*Proceedings before Family Court under Part
7 of 1991 Act*

Clause 37 amends section 99 of the 1991 Act. Section 99 relates to applications to the Family Court for a person to be declared a step-parent of a child. An application may be made by a parent or a receiving carer of the child. The effect of the amendment made by *clause 37(1)* is that a carer of the child will be able to make an application even if the carer is not a receiving carer. The amendment made by *clause 37(2)* extends the parties to any proceedings on an application under section 99 to include any parent or carer of the child (in addition to the applicant and the prospective step-parent).

Clause 38 amends section 102 of the 1991 Act. Section 102 relates to appeals to the Family Court against a decision of the Commissioner to disallow an objection made under section 90. The amendment clarifies that the parties to the appeal proceedings will be the objector and the Commissioner (subject to section 125 of the 1991 Act, which entitles parents and carers to intervene in proceedings).

Clause 39 amends section 103 of the 1991 Act. Section 103 relates to appeals to the Family Court against a decision of the Commissioner to disallow an objection to an assessment made under section 91 (*see notes on Objections to assessments*). Schedule 3 of the 2013 Amendment Act amended section 103(1) to allow any person affected by the assessment to appeal. The amendment made by *clause 39(1)* restricts the right of appeal to the person who made the disallowed objection. *Clause 39(2) and (3)* makes consequential amendments.

Clause 42 amends section 107 of the 1991 Act. Section 107 sets out what the Commissioner must do to give effect to an order made by the Family Court under section 106. Orders under section 106 may modify the provisions of the 1991 Act relating to formula assessments (*see notes on Grounds for departure from provisions of 1991 Act relating to formula assessments*). Under section 107, the Commissioner must act on the basis of the provisions of the 1991 Act as

modified by the order. The amendment made by *clause 42* clarifies that the Commissioner may apply the provisions of the 1991 Act relating to the amount of child support payable in relation to a receiving carer under a formula assessment (for example, sections 36A to 36C) with the modifications the Commissioner considers necessary to achieve fully the intention of the order. The amendment will also apply in relation to determinations made by the Commissioner under subpart 3 of Part 5A or Part 6A or 6B, as sections 106 and 107 apply in relation to such determinations as if they were court orders.

Method of payment of financial support

Clause 43 replaces section 129 of the 1991 Act to enable a person who is liable to pay financial support under that Act to choose to do so by way of automatic deduction from payments of income made to him or her by an employer that are subject to PAYE. This replaces the amendment made by section 38 of the 2013 Amendment Act, which would have introduced a scheme for mandatory automatic deduction on 1 April 2016. Section 38 would also have introduced a scheme under which payments for goods or services for the benefit of a child could be recognised as payments of child support. That scheme is also being removed.

Clauses 44 and 45 make consequential amendments.

Clause 46 amends section 158 of the 1991 Act to provide that a person who has chosen to pay financial support by way of automatic deduction may choose to stop automatic deduction.

Secrecy

Clause 48 reverses the amendment made to section 240(2)(a)(ii) of the 1991 Act by Schedule 3 of the 2013 Amendment Act.

Application, transitional, and savings provisions

Clause 49 amends section 276 of the 1991 Act, which introduces Schedule 1 of that Act, and *clause 50* amends Schedule 1.

Schedule 1 of the 1991 Act was inserted by Schedule 1 of the 2013 Amendment Act and contains transitional and savings provisions in relation to the amendments made by Part 1 of the 2013 Amendment Act that come into force on 1 April 2015.

Clause 50(6) inserts *new clause 1A* into Schedule 1 of the 1991 Act. *New clause 1A* is a general savings provision clarifying that, in relation to financial support in respect of child support years ending before 1 April 2015, the 1991 Act applies on and after that date as if, with some exceptions, the amendments made by Part 1 of the 2013 Amendment Act, and by sections 206 to 215 of the 2014 Taxation Act, had not been made. *New clause 1A* is not intended to limit the application of the general savings provisions contained in sections 17 to 19 of the Interpretation Act 1999.

Clause 50(2) to (5) and (7) makes consequential and other clarificatory amendments to Schedule 1 of the 1991 Act.

In particular, *clause 50(7)* inserts *new clause 2A* into Schedule 1 of the 1991 Act. Without limiting *new clause 1A*, *new clause 2A* confirms that sections 44 to 45 of the 1991 Act as they are immediately before 1 April 2015 continue to apply on and after that date in relation to child support in respect of child support years ending before that date. In relation to pre-1 April 2015 liabilities to pay child support, a similar regime to that described in the notes on *Penalties for underestimation of taxable income* operates to enable a parent's liability for child support in a child support year to be determined by reference to the parent's estimate of his or her taxable income for the year. Adjustments are made after the end of the year if the parent overestimates or underestimates his or her taxable income and additional penalties are payable in certain cases involving underestimations. *New clause 2A* confirms that, after 1 April 2015, adjustments may be made and penalties may be payable under the pre-1 April 2015 regime in respect of child support years ending before 1 April 2015. So, if a parent overestimates or underestimates his or her taxable income for the child support year ending with 31 March 2015, *new clause 2A* confirms that, after the end of that year, adjustments may be made in respect of that parent for that year and that a penalty may be imposed on the parent if he or she underestimated his or her taxable income.

Clause 50(2) to (7) comes into force on 1 April 2015 and is expected to have retrospective effect as the Bill is not expected to receive the Royal assent before that date.

Clause 50(8) inserts into Schedule 1 of the 1991 Act application provisions relating to certain amendments made by the Bill clarifying

how they will apply when they come into force. *Clause 50(1)* makes a consequential amendment.

Amendments to Child Support Amendment Act 2013

Clause 51 sets out the clauses that affect the *Child Support Amendment Act 2013*. Apart from the amendment made by *clause 52*, the amendments are to Part 2 of the 2013 Amendment Act. Subject to the amendment made by *clause 52*, Part 2 of the 2013 Amendment Act comes into force on 1 April 2016.

Clause 52 amends the commencement section of the 2013 Amendment Act to bring forward from 1 April 2016 the commencement of sections 40(1), 41, 42, 44, and 45 of that Act to the day after the date on which this Bill receives the Royal assent. Those sections relate to payment agreements and relief from penalties.

Clause 53 repeals section 37 of the 2013 Amendment Act in consequence of *clauses 40(1), (2), and (5) and 41(1)* (see notes on *Grounds for departure from provisions of 1991 Act relating to formula assessments*).

Clause 54 repeals section 38 of the 2013 Amendment Act in consequence of *clause 43* (see notes on *Method of payment of financial support*).

Clause 55 amends new section 135FA of the 1991 Act as inserted by section 43 of the 2013 Amendment Act. New section 135FA gives power to the Commissioner to grant relief from certain penalties where the Commissioner has entered into a payment agreement with a liable person in relation to the payment of the liable person's outstanding financial support debt and future financial support liabilities. The amendment provides that the Commissioner must have regard to the matters referred to in sections 6 and 6A of the *Tax Administration Act 1994* before granting relief on the ground relating to serious hardship.

Clause 56 amends section 44 of the 2013 Amendment Act in consequence of *clause 57*.

Clause 57 amends new section 135GA of the 1991 Act as inserted by section 45 of the 2013 Amendment Act. New section 135GA gives

power to the Commissioner to grant relief from certain penalties. The amendments do the following:

- in new section 135GA(1), insert a new ground for relief relating to serious hardship:
- provide that new section 135GA(2) applies even if only some of a benefit component of an amount of child support has been written off.

The commencement of sections 44 and 45 of the 2013 Amendment Act, as amended by *clauses 56 and 57*, is being brought forward from 1 April 2016 to the day after the date on which this Bill receives the Royal assent (*see notes on clause 52*).

Clause 58 repeals section 57 of the 2013 Amendment Act in consequence of *clauses 40(3) and (4) and 41(2)* (*see notes on Grounds for departure from provisions of 1991 Act relating to formula assessments*).

Clause 59 makes a repeal related to *clause 54*.

Clause 60 amends section 59 of the 2013 Amendment Act in consequence of *clause 47* (*see notes on Elections to end formula assessments*).

Clause 61 amends new section 180A(2) of the 1991 Act as inserted by section 60 of the 2013 Amendment Act to clarify the Commissioner's power to write off amounts owing to the Crown where a receiving carer is a social security beneficiary.

Clause 62 makes a repeal related to *clause 54*.

Clause 63 replaces section 62 of the 2013 Amendment Act in consequence of *clause 49* (*see notes on Application, transitional, and savings provisions*).

Clause 64(1) and (2) amends section 63 of the 2013 Amendment Act in consequence of *clause 50* (*see notes on Application, transitional, and savings provisions*).

Clause 64(3) makes a repeal related to *clause 53*.

Clause 64(4) amends section 63 of the 2013 Amendment Act to clarify that sections 180A and 180C of the 1991 Act, as inserted by section 60 of the 2013 Amendment Act, can apply in relation to debts in respect of child support years ending before 1 April 2015.

Part 2

Annual rates of income

Clause 65 provides that income tax for the 2015–16 tax year is to be paid at the basic rates specified in schedule 1 of the *Income Tax Act 2007*.

Part 3

Amendments to Income Tax Act 2007

Clause 66 sets out the clauses that affect the *Income Tax Act 2007*.

Clause 67 amends section CD 18(3) to correct a fault in expression.

Clause 68 amends section CD 39 by removing redundant references to the attributed repatriation rules.

Clause 69 amends section CD 44, which relates to the valuation of livestock, to account more properly for capital gains and losses under section EC 4C. The amendment comes into force on *28 March 2012*.

Clause 70 amends section CE 1E to clarify the meaning of remuneration in relation to the calculation of the value of accommodation provided to ministers of religion.

Clause 71 amends section CF 3 which deals with withdrawals from foreign superannuation schemes made by persons who were non-resident at the time they acquired the interest in the scheme. The amendments clarify the residence requirements of the person and their spouse, civil union partner, or de facto partner. The amendments also exclude a low-value FIF superannuation interest from the ambit of the section.

Clause 72 amends section CG 7B consequentially as a result of amending section DB 37 to allow a deduction for expenditure incurred on a failed application for a design registration.

Clause 73 inserts *new section CG 7C*, which applies to a person who receives a deduction for capitalised development expenditure on a non-depreciable intangible asset and who, after derecognising or writing-off the asset for accounting purposes, disposes of the asset for consideration, uses it, or has it available for use. The new section provides for a clawback of the deduction.

Clause 74 amends section CQ 2 to correct a subsection heading and remove a redundant reference to the attributed repatriation rules.

Clause 75 amends section CQ 5 to: restore, effective from *1 April 2014*, an exemption for Australian regulated superannuation savings that was removed in error; correct a description of an exemption for an annuity or pension to clarify that the exemption does not depend on the current residence of the holder of the annuity or pension; and clarify that a person with an interest in a non-attributing active CFC may have attributed income from an interest in a FIF held by the CFC.

Clause 76 replaces section CW 55BA, to provide for an exemption for income earned by companies that are owned by tertiary education institutions. The amendment comes into force on *1 July 2008*.

Clause 77 repeals section CX 48, which relates to new start grants.

Clause 78 amends section CX 56C to clarify that resident means resident in New Zealand, coming into force on *1 April 2010*.

Clause 79 repeals section CZ 10, which provides transitional relief for the calculation of attributed repatriation dividends and is now redundant.

Clause 80 amends section CZ 29 to insert a missing subsection heading, coming into force on *4 September 2010*.

Clause 81 inserts *new section CZ 33* to provide a transitional provision for the tax treatment of accommodation for ministers of religion for the period from *1 July 2013* to *1 April 2015*.

Clause 82 repeals section DA 5 which was incorrectly located. It is replaced by *new section DB 22B*, with effect from *1 April 2011*.

Clause 83 inserts *new section DB 22B* which restates the treatment of amounts paid for commercial fit-out for buildings, formerly provided for in section DA 5, also with effect from *1 April 2011*.

Clause 84 amends section DB 31, which provides rules for deductions for bad debts. The policy objective of the rules is that taxpayers not have bad debt deductions unless they suffer economic loss. Several subsections, relating to the deductions available to dealers and holders of financial arrangements, are replaced. The relevant rules are complex and were recently inserted in a form that did not produce the intended result. The substituted subsections express the rules in a different way to produce results consistent with the original policy objectives, coming into force on *20 May 2013*. A separate amendment clarifies that when a person enters into a financial arrangement in the ordinary course of their business, the capital limitation does

not apply to deny a deduction under the section, coming into force on 1 April 2008.

Clause 85 amends section DB 34 to provide a deduction for a person who incurs capitalised development expenditure on or after 7 November 2013 on an intangible asset that is not depreciable intangible property and who derecognises or writes off the asset for accounting purposes.

Clause 86 amends section DB 35 so that references in definitions correspond to other defined terms.

Clause 87 amends section DB 37 to allow a deduction for what would otherwise be black hole expenditure on a failed design registration application.

Clause 88 amends section DF 1, which applies to a grant by a local authority or public authority to a business, so that the section does not apply to a payment of a tax credit for R&D losses.

Clause 89 amends section DG 4. The relationship between the person who uses an asset and the person who controls the asset is clarified for the purposes of applying the test for private use of the asset under the rules (the *mixed use asset rules*) relating to assets used partly for income-earning purposes and partly for private purposes. In addition, the use of an asset by an employee as part of employment is proposed to be treated in the same way under the rules as a use of the asset in the ordinary course of business. The amendment is effective from 1 April 2013.

Clause 90 amends section DG 9, which is part of the mixed use asset rules and applies to the apportionment of expenditure or loss. The change clarifies that a reference in the rules to a “capital use” of an asset means that the asset is used for a capital purpose. The amendment is effective from 1 April 2013.

Clause 91 amends section DG 11, which applies to close companies that own assets subject to the mixed use asset rules. The changes clarify the basis on which deductions incurred for interest expenditure are apportioned under the rules if a close company has excessive debt. The amendment is effective from 1 April 2013.

Clause 92 amends section DG 12, which is part of the mixed use asset rules. The amendment clarifies the basis on which deductions for interest expenditure are apportioned under the rules when debt that relates to an asset is held by a company that is within the same

group as the close company that owns the asset. The amendment is effective from *1 April 2013*.

Clause 93 amends section DG 13, which applies to a company that is a shareholder in a close company that owns assets subject to the mixed use asset rules, but is not in the same group. The amendment clarifies the basis on which deductions for interest expenditure are apportioned under the rules when debt that relates to an asset is held by the shareholder company. The amendment is effective from *1 April 2013*.

Clause 94 amends section DG 14, which applies to a person who is not a company and is a shareholder in a close company that owns assets subject to the mixed use asset rules. The amendment clarifies the basis on which deductions for interest expenditure are apportioned under the rules when debt that relates to an asset is held by the shareholder. The amendment is effective from *1 April 2013*.

Clause 95 amends section DG 16, which is part of the mixed use asset rules, to clarify that the section applies to an amount of both expenditure or loss. The amendment is effective from *1 April 2013*.

Clause 96 amends section DN 6 to clarify that losses from a FIF held by a non-attributing active CFC can be attributed and to restore, effective from *1 April 2014*, an exemption for Australian regulated superannuation savings that was repealed in error.

Clause 97 replaces section DT 3, which provides a timing rule for the deduction of petroleum exploration expenditure relating to the acquisition of certain permits and licences. The amendment excludes a mining licence granted under Part 1 of the Petroleum Act 1937 from the operation of the rule. The amendment is linked to the change to section DT 8. Both amendments are effective from *1 April 2008*.

Clause 98 replaces section DT 8, which provides a timing rule for the deduction for expenditure to acquire petroleum mining assets. The amendment means that the timing rule applies to expenditure to acquire a mining licence granted under Part 1 of the Petroleum Act 1937. The amendment is linked to the change to section DT 3.

Clause 99 inserts a *new heading* and *new section DV 26*, which provides for the reinstatement of a deduction for R&D expenditure if the person has R&D tax losses for a tax year that are cancelled under *new section MX 5* and then reinstated under *new section MX 6*.

Clause 100 amends section DZ 4, clarifying the nature of a restriction on a petroleum miner who claims a deduction for expenditure relating to an abandoned exploratory well. The amendment is effective from *1 April 2008*.

Clause 101 amends section DZ 5, clarifying a detail affecting the calculation of deductions for a petroleum miner who makes a transfer under a farm-out arrangement. The amendment is effective from *1 April 2008*.

Clause 102 amends section EC 31, which relates to the valuation of livestock, to ensure that transactions involving an exchange for non-monetary consideration are within the ambit of the section. The amendment is effective from *1 April 2015*.

Clause 103 amends section EC 41, which relates to the valuation of bloodstock, replacing a reference to a “matrimonial agreement” with a reference to a “relationship agreement”, which is the correct statutory term. The amendment is effective from *1 April 2008*.

Clause 104 amends section EE 16 to define the cost of certain new items of depreciable intangible property for the purpose of calculating the annual amount of depreciation allowed. Costs incurred before 7 November 2013 for these items are ineligible for depreciation. The amendment comes into force on *1 April 2015*.

Clause 105 inserts *new section EE 18B*, which provides that the cost to a person of certain items of depreciable intangible property for depreciation purposes includes capitalised expenditure incurred on an underlying item of intangible property. The amendment comes into force on *1 April 2011*.

Clause 106 amends *new section EE 18B* to provide that the cost to a person of certain items of depreciable intangible property for depreciation purposes includes capitalised expenditure they have incurred on or after 7 November 2013 on an underlying item of intangible property. The amendment comes into force on *1 April 2015*.

Clause 107 amends section EE 19 to define the cost of certain new items of depreciable intangible property for the purpose of calculating the annual amount of depreciation allowed. Costs incurred before 7 November 2013 for these items are ineligible for depreciation. The amendment comes into force on *1 April 2015*.

Clause 108 amends section EE 32 to correct a technical term. The amendment is effective from *1 April 2008*.

Clause 109 amends section EE 33 consequentially as a result of the setting of an annual rate of depreciation for design registrations in *new section EE 34B* and the specification of the cost of certain items of depreciable intangible property in *new section EE 18B*.

Clause 110 amends section EE 34 consequentially as a result of the specification of the cost of a patent in *new section EE 18B*.

Clause 111 inserts *new section EE 34B* to provide an annual rate of depreciation for a design registration. The amendment comes into force on 1 April 2015.

Clauses 112 to 116 amend sections EE 44, EE 57, EE 60, EE 61, and EE 67 consequentially, to ensure that the depreciation rules operate appropriately in relation to the new items of depreciable intangible property being added to schedule 14. The amendments come into force on 1 April 2015.

Clause 117 amends section EJ 23, which provides for the allocation of deductions relating to research, development, and resulting market development. The amendment inserts a paragraph providing that the section applies to deductions arising under *new section DV 26* from the reinstatement of R&D tax losses.

Clause 118 amends section EM 1 to correct a cross-reference.

Clause 119 amends section EM 6 to correct a cross-reference.

Clause 120 amends section EW 9 to clarify when the financial arrangements rules apply to non-resident trustees. The amendment is effective from 1 April 2008.

Clause 121 amends section EW 15D consequentially on the insertion of *new section EZ 69B* for the change of spreading method for other comprehensive income for the 2015–16 income year.

Clause 122 amends section EW 33C to insert a missing subsection heading. The amendment is effective from 1 April 2011.

Clause 123 repeals section EW 46 which relates to new start grants.

Clause 124 amends section EX 16 by removing redundant references to the attributed repatriation rules.

Clause 125 amends section EX 20B to provide that a person who holds an attributing interest in a CFC, and who files a return of income in which they have used the section to determine the amount attributed to the person, must continue that use in future income years.

Clause 126 amends section EX 20C, which relates to the way a person calculates income from a CFC. In particular, the amendment will require the person to adjust the amount of a deduction by the amount of any unexpired expenditure. The person is required to apply the prepayment adjustments in sections CH 2 and DB 50 as if the CFC were a New Zealand resident.

Clause 127 amends section EX 21 by removing redundant references to the attributed repatriation rules.

Clause 128 amends section EX 21D, which gives the default test applying to a group of companies to determine whether a CFC that is part of the group of companies is a non-attributing active CFC. Under the amendment, a person who acquires or disposes of a CFC having ownership interests in a number of other CFCs, and also acquires the other CFCs at the same time, may group the first CFC together with the other CFCs as a test group in certain circumstances. The amendment corresponds to the amendment to section EX 21E. The amendment is effective from *1 July 2009*.

Clause 129 amends section EX 21E, which gives an optional test applying to a group of companies to determine whether a CFC that is part of the group of companies is a non-attributing active CFC. Under the amendment, a person who acquires or disposes of a CFC having ownership interests in a number of other CFCs, and also acquires the other CFCs at the same time, may group the first CFC together with the other CFCs as a test group in certain circumstances. The amendment corresponds to the amendment to section EX 21D. The amendment is effective from *1 July 2009*.

Clause 130 amends section EX 24 to correct a fault in expression.

Clause 131 amends section EX 25 to remove redundant references to the attributed repatriation rules.

Clause 132 amends section EX 31, which provides for an exemption from the FIF rules for a person's shares in an Australian listed company if the company's shares are included in an approved index under the ASX Operating rules. The amendment clarifies the date upon which the shares must be included in an approved index.

Clause 133 inserts *new section EX 33* to set out the criteria that must be met for an exemption for Australian regulated superannuation savings to apply to a person's rights in a FIF. The new section replicates an earlier section that was repealed by section 54 of the Taxa-

tion (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014. The insertion is consequential on changes, made between introduction and enactment, to the clause that became section 8 of that Act and inserted section CF 3 into the Income Tax Act 2007. The amendment is effective from *1 April 2014*.

Clause 134 amends section EX 35, which provides for an exemption from the FIF rules for an interest in a FIF resident in Australia. The amendment clarifies the period in which the exemption applies. The amendment is effective from *1 July 2011*.

Clause 135 amends section EX 44, which provides a choice of methods to calculate FIF income or loss from a person's interest in a FIF. The amendment clarifies that the choice of method applies on an interest by interest basis, rather than to the person's interests as a whole.

Clause 136 amends section EX 50 to simplify section EX 50(6) consequentially on the definition of a new defined term.

Clause 137 inserts *new section EX 51B*, which sets out the requirement for a person to use the fair dividend rate method to calculate their FIF income from an attributing interest in a FIF. There are 2 versions of the fair dividend rate method. A person can choose to use the fair dividend rate method on a FIF interest by FIF interest basis, but once they have chosen to use a particular version of the method for a particular FIF interest, they must use that version for a total of 4 consecutive income years.

Clauses 138 and 139 amend sections EX 52 and EX 53 consequentially on the insertion of *new section EX 51B*, to distinguish more clearly the versions of the fair dividend rate method set out in those sections.

Clause 140 amends section EX 58, which provides for the calculation of a person's FIF income or loss from a FIF interest held by a CFC, if the FIF interest does not contribute to the person's income or loss from the CFC. The amendment ensures that a person receives the same FIF income or loss that they would receive if they held the FIF interest directly for the relevant period.

Clause 141 amends section EX 62 to repeal transitional rules relating to previous changes to the FIF rules and to remove a person's option of changing from the branch equivalent method for calculating FIF income or loss for the person's attributing interest in a FIF.

Clause 142 amends section EX 63 to remove the reference to the branch equivalent method, which is no longer available for calculating FIF income or loss for a person's attributing interest in a FIF.

Clause 143 amends section EX 72 to remove a redundant reference to the attributed repatriation rules.

Clause 144 amends section EZ 5 to correct a defined term. The amendment is effective from *1 April 2008*.

Clause 145 inserts *new section EZ 32G*, which gives the treatment for certain interests in foreign superannuation schemes that would usually give rise to FIF income or loss before 1 April 2014 but after that date are not FIF superannuation interests.

Clause 146 inserts *new section EZ 69B*, which provides for the transitional consequences of the change in the requirements of section EW 15D(2)(b) for the spreading of certain income determined under the IFRS financial reporting method.

Clause 147 amends section EZ 70, which relates to Canterbury earthquake damage to property, to ensure that transactions involving an exchange for non-monetary consideration are within the ambit of the section.

Clause 148 amends section EZ 76 to insert a missing section heading.

Clause 149 replaces section FB 1 with *new sections FB 1, FB 1B, and FB 1C*. The amendments clarify when subpart FB applies, clarify the definition of *settlement of relationship property*, and provide for the tax treatment of transfers of property not subject to the specific rules contained elsewhere in the subpart. The amendment is effective from *1 April 2008*.

Clause 150 amends section FC 1, which deals with the application of subpart FC. The amendment prevents a distribution of property from a trustee to a beneficiary being dealt with under the subpart when the beneficiary pays an amount for the property. The amendment is effective from *1 April 2008*.

Clause 151 replaces section FC 4, which deals with transfers of property to charities or close relatives. The amendment corrects a cross-referencing error to include references to sections CW 41 and CW 42 that refer to charities.

Clause 152 amends section FC 6, which deals with forestry assets that are transferred to close relatives. The amendment describes the specific sections under subpart FB that apply to these transfers.

Clause 153 amends section FE 1 to delete a redundant term from the list of defined terms.

Clause 154 amends section FE 4 to delete a redundant term from the list of defined terms.

Clause 155 amends section FE 12 to correct some cross-references.

Clause 156 amends section FE 18 to correct a cross-reference.

Clause 157 amends section FE 28, which gives the rules for identifying the members of a person's New Zealand group. The amendment clarifies that, for the purposes of a special rule applying to some entities, a New Zealand group does not include a member of the New Zealand banking group of a registered bank.

Clause 158 replaces section FE 31D, inserted by section 115 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 with effect on 1 April 2015, to clarify the entities that make up the worldwide group when a non-resident owning body or trustee controls the group.

Clause 159 amends section FO 12, which provides for the treatment of financial arrangements in a resident's restricted amalgamation, to clarify the relationship between the section and the loss rules. The amendment is effective from *1 April 2008*.

Clause 160 amends section FO 13 to correct the expression of the method used in determining the consideration that an amalgamated company is treated as providing to an amalgamating company for a financial arrangement in a resident's restricted amalgamation. The consideration is the amount that results in a base price adjustment for the amalgamating company that fairly apportions, between the amalgamating company and the amalgamated company, the income or expenditure for the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place. The amendment is effective from *1 April 2008*.

Clause 161 repeals section GB 8, which is an anti-avoidance provision for taxpayers who have entered into an arrangement to avoid the (now repealed) attributed repatriation rules.

Clauses 162 to 164 amend sections GB 9, GB 11, and GB 13 to remove redundant references to the attributed repatriation rules.

Clause 165 inserts *new section GB 15BA*, which relates to a CFC that is a non-attributing active CFC only when a person chooses to test the

CFC together with other CFCs as a test group under section EX 21D or EX 21E. This amendment provides that the Commissioner may prevent a person from minimising income and maximising losses in 2 or more accounting periods by selective treatment in different accounting periods.

Clause 166 amends section GB 27 so that the section may now operate to attribute income to a person who provides personal services overseas through a CFC, provided the person has not chosen to apply the CFC rules to attribute the income. Once the person has filed a return of income under this section to determine the amount attributed to the person, they must continue this treatment in future income years. An exclusion prevents attribution of income from the CFC to the person where the total amount to be attributed in an income year is less than \$5,000, but the exclusion will not apply to a person who provides personal services overseas through a CFC, and who has chosen to attribute the income under this section.

Clause 167 amends section HC 10, which applies to complying trusts. The changes clarify that a foreign trust can be treated as a complying trust if an election is made and certain tax obligations are satisfied for the life of the trust. The amendment is effective from *1 April 2008*.

Clause 168 amends section HC 27 to remove the list of specific provisions to which the definition of *settlor* applied.

Clause 169 amends section HC 29, which provides for a settlor to be liable as agent for the income tax liability of a trustee in certain circumstances. The change is consequential to the change in section HC 10 and clarifies that when the trust becomes a complying trust under *new section HC 10(1)(ab)*, a settlor of a trust cannot avoid liability as agent on the grounds that another settlor is more appropriately liable. The amendment is effective from *1 April 2008*.

Clause 170 amends section HC 33, which provides that a trustee, settlor, or beneficiary of a foreign trust may elect that the trust be a complying trust. The changes allow a trustee of a trust with a settlor that emigrates from New Zealand to be treated as making an election if they meet certain requirements. The changes also clarify that the person making the election must satisfy the income tax liability of the trustee as if the foreign trust had a New Zealand resident as settlor. The amendment is effective from *1 April 2008*.

Clause 171 amends section HG 10 to insert a new reference, and insert a new term into the list of defined terms.

Clauses 172 to 174 amend sections HM 42, HM 43, and HM 44, which relate to the calculation and payment of tax for multi-rate PIEs, correcting a cross-reference to a provision in the Tax Administration Act 1994.

Clause 175 amends section HR 3, which gives definitions of terms relating to group investment funds. The amendment clarifies that, in the definition of *designated sources*, a reference to the application of funds relates to the funds of a trust rather than to the funds of a beneficiary of a trust. The amendment is effective from *1 April 2008*.

Clause 176 amends section HR 8 to clarify that a person who chooses not to be a transitional resident will not be a transitional resident. The amendment is effective from *1 April 2008*.

Clauses 177 and 178 amend sections HZ 4B and HZ 4D by replacing references to *tax position* with references to *tax situation* so as to clarify that the meaning of the term used in sections HZ 4B and HZ 4D differs from the meaning of the term *tax position* used elsewhere in the Act.

Clause 179 amends section IQ 1A to correct a technical term.

Clause 180 amends section LA 7, which applies to some refundable tax credits, by inserting a cross-reference to a tax credit for R&D tax losses and making a consequential change to the section heading.

Clause 181 inserts *new section LB 4B*, which provides that a tax credit calculated for a tax year under *subpart MX* for R&D tax losses is a tax credit for the tax year.

Clause 182 amends section LD 1, to update a heading referred to in a cross-reference.

Clause 183 amends section LD 3 to clarify that a subscription qualifies as a charitable or other public benefit gift only if it meets the criteria that a gift would have to meet. *Subclause (4)* replaces section LD 3(2)(bc) as a consequence of the insertion in section YA 1 of the definition of *tertiary education institution*. The amendments are effective from *1 April 2008*.

Clause 184 repeals the remainder of subpart LH. The subpart has not had a substantive effect since 1 April 2009, when most of its provisions were repealed.

Clause 185 repeals a redundant cross-heading after section LP 6.

Clause 186 amends section LU 1 to correct a technical term.

Clause 187 amends section MA 1, which refers to types of tax credits paid in cash, to insert a reference to tax credits under *subpart MX* for R&D tax losses.

Clause 188 amends section MB 1 to clarify that family scheme income includes a refund of a deposit in a main income equalisation account if the refund is interest payable to a person listed in section MB 9. The amendment is effective from *1 April 2011*.

Clause 189 amends section MB 13, which partially defines family scheme income. The amendment excludes an educational bursary from being family scheme income. The amendment is effective from *1 April 2011*.

Clause 190 amends section MC 5 to recognise that a transitional resident does not include a person who chooses not to be a transitional resident. The amendment is effective from *1 April 2008*.

Clause 191 amends section MF 6, to update a heading referred to in a cross-reference.

Clause 192 inserts *new subpart MX*, which provides for the determination of tax credits for R&D tax losses. *Section MX 1* sets out the criteria for the application of the subpart to a person. The person must be a company satisfying the corporate eligibility criteria, which relate to residency and type of entity, and must have a net loss for the tax year before the application of the subpart. If the person is a group company, the group must also have a net loss for the tax year. The person must incur R&D expenditure as defined and meet the wage intensity criteria, which relate to the proportion of expenditure on labour that is R&D expenditure. The person must be an owner of the intellectual property and know-how that results from the expenditure. The person, and the person's group of companies, must comply with all tax law obligations. *Section MX 2* sets out the corporate eligibility criteria, which require that the person and each member of the person's group be a company that is New Zealand resident, including under double tax agreements. The person must not: be, or be owned by, a special corporate entity or qualifying company; be established by any of several statutes; or be a listed company. *Section MX 3* sets out the wage intensity criteria, which relate to the person's expenditure on salary or wages, payments to external contractors for R&D material, and payments to shareholder-employees. The section gives

the proportion of that expenditure that must be payment for R&D material. *Section MX 4* sets out the amount of a tax credit available to a person for an income year, including the maximum amount available for each of the 2015–16 to 2020–21 tax years. *Section MX 5* gives the amount by which the tax loss of a person is reduced in a tax year for which the person has a tax credit for R&D tax losses. *Section MX 6* provides that, in certain circumstances, the person may be liable for an amount of R&D repayment tax based on the amount of the person's tax credits for R&D losses, the value of certain intangible property, and the amount of income tax paid by the person.

Clause 193 amends section OB 1, which gives general rules for ICA companies, to clarify that a company that is acting in the capacity of trustee is excluded from being an ICA company unless the company is acting as a trustee of certain group investment funds. The amendment is effective from *1 April 2008*.

Clauses 194 and 195 insert *new section OB 47B* and amend table O2, to provide that a company with tax credits for R&D losses for a tax year has an imputation debit for the tax year in their imputation credit account.

Clauses 196 and 197 amend sections OP 27 and OP 50, to correct a technical term.

Clause 199 amends section RC 7, which relates to the calculation of provisional tax using the estimation method, to clarify the date on which a person may revise an estimate of their residual income tax. The amendment is effective from *1 April 2008*.

Clause 200 amends section RC 17, which specifies circumstances in which a person must stop using the GST ratio method to calculate provisional tax. The amendment adds the circumstances in which a person's residual income tax is determined and a consequence is that the person no longer meets the requirements for the preceding tax year.

Clause 201 amends section RC 18, which relates to changes in the method for calculating provisional tax, consequentially on the amendment to section RC 17.

Clause 202 amends section RD 27, which includes a definition of the meaning of *market value* in the rules for determining the value of a fringe benefit. The amendment clarifies that market value means the

price normally paid when the employee receives the fringe benefit. The amendment is effective from *1 April 2008*.

Clause 203 amends section RD 35, which applies to the valuation of a fringe benefit arising from an employment-related loan by an employer who is in the business of lending money to the public. The application of the section is extended to an employer who is in the same group of companies as an employer in such a business and who elects to apply the section. An amendment specifies the first quarter to which the election will apply.

Clause 204 amends section RE 18B to insert a missing subsection heading.

Clause 205 amends section RF 2 by deleting cross-references to sections that do not relate to NRWT.

Clause 206 amends section RM 10 by updating the heading referred to in a cross-reference.

Clause 207 amends section RP 17, to provide that the purposes for which a person may set up a tax pooling account include the meeting of a liability for interest under Part 7 of the Tax Administration Act 1994 on an increased amount of tax. The amendments in this clause and *clauses 208 to 212* are effective from *3 July 2014*.

Clause 208 amends section RP 17B, to provide that a person may use funds in a tax pooling account to meet liabilities that include interest charged under Part 7 of the Tax Administration Act 1994 on an increased amount of tax. *New section RZ 12* is a transitional provision for the amendments.

Clause 209 amends section RP 19 as a consequential amendment arising from the inclusion of interest in the liabilities that may be met using funds from a tax pooling account.

Clause 210 amends section RP 19B as a consequential amendment arising from the inclusion of interest in the liabilities that may be met using funds from a tax pooling account.

Clause 211 inserts a *new cross-heading* after section RZ 10.

Clause 212 inserts a *new cross-heading* and *new section RZ 12*, to allow a request made after 2 July 2014 for a transfer from a tax pooling account to be amended to include an amount of interest charged under Part 7 of the Tax Administration Act 1994. The new section is a transitional provision for the amendments to section RP 17B.

Clause 213 amends section YA 1. *Subclause (2)* amends the definition of *acquire* as a consequence of the addition of new items of depreciable intangible property to schedule 14. *Subclause (3)* repeals the definition of *attributed repatriation* as a consequence of the earlier repeal of the attributed repatriation rules. *Subclause (4)* repeals the definition of *conduit company*. *Subclause (5)* amends the definition of *continuity period* as part of the new R&D tax loss rules. *Subclause (6)* amends the definition of *continuity provisions* as part of the new R&D tax loss rules. *Subclauses (7) and (8)* insert definitions of *contractor R&D consideration* and *core technology* for the new R&D tax loss rules. *Subclauses (9) and (10)* insert definitions of *design registration* and *design registration application* as a consequence of making these intangible assets depreciable. *Subclause (11)* amends the definition of *development* as part of the new R&D tax loss rules. *Subclause (12)* amends the definition of *dispose* as a consequence of making design registration applications depreciable. *Subclause (13)* amends the definition of *distant workplace* so that the definition does not refer to itself. *Subclause (14)* amends a cross-reference in the definition of *distinctive work clothing*, coming into force on 1 July 2013. *Subclause (15)* repeals the definition of *emergency event*. *Subclause (16)* corrects some cross-references in the definition of *employee*. *Subclauses (17) and (18)* correct some cross-references in the definitions of *employee* and *employer*, coming into force on 5 January 2010. *Subclause (19)* inserts a definition of *fair dividend rate annual method* as a consequence of the insertion of *section EX 51B* and the amendments to section EX 52. *Subclause (20)* replaces the definition of *fair dividend rate method* as a consequence of the insertion of *section EX 51B* and the amendments to sections EX 52 and EX 53. *Subclause (21)* inserts a definition of *fair dividend rate periodic method* as a consequence of the insertion of *section EX 51B* and the amendments to section EX 53. *Subclauses (22) to (26)* amend the definition of *FIF superannuation interest* as a consequence of the changes made to foreign superannuation, coming into force on 1 April 2014. *Subclause (27)* amends the definition of *goods* as part of the new R&D tax loss rules. *Subclause (28)* replaces the definition of *group of companies* as a consequence of the insertion of the new R&D tax loss rules. *Subclause (29)* inserts a definition of *indirect attributing interest* as a consequence of the amendments to section EX 58 to ensure that a person who holds

a FIF interest indirectly faces the same tax treatment as a person who holds a FIF interest directly. The amendment comes into force on 1 April 2014. *Subclause (30)* corrects a cross-reference in the definition of *insurance*. *Subclause (31)* inserts a definition of *intellectual property* as part of the new R&D tax loss rules. *Subclause (32)* amends the definition of *international tax rules* by repealing paragraphs related to attributed repatriations from CFCs. *Subclause (33)* inserts a definition of *know-how* as part of the new R&D tax loss rules. *Subclause (34)* inserts a cross-reference definition of *mineral miner*, which was inadvertently omitted from an earlier Bill, coming into force on 1 April 2014. *Subclause (35)* amends the definition of *minimum market value interest* and *subclause (36)* amends the definition of *minimum voting interest*, both as part of the new R&D tax loss rules. *Subclause (37)* inserts a definition of *minister of religion* referring to a transitional provision, coming into force on 1 July 2013, and *subclause (38)* repeals the definition at the end of the period to which the transitional provision applies. *Subclause (39)* amends the definition of *net loss* as a consequence of the insertion of the new R&D tax loss rules. *Subclause (40)* repeals the definition of *new start grant*. *Subclause (41)* repeals the definition of *New Zealand repatriation amount* which is related to attributed repatriations from CFCs. *Subclauses (42) and (43)* amend cross-references in the definition of *non-filing taxpayer* as a consequence of the changes made to the exceptions for filing returns of income, with *subclause (42)* coming into force on 1 April 2008. *Subclause (44)* amends the definition of *non-IFRS designated FX hedge* to insert a section title missing from a cross-reference. *Subclause (45)* amends the definition of *old reporting standard* as part of the new R&D tax loss rules. *Subclauses (46) and (47)* correct cross-references in the definitions of *out-of-town secondment* and *period of continuous work*. *Subclause (48)* corrects a cross-reference in the definition of *permit area*, coming into force on 1 April 2014. *Subclause (49)* amends the definition of *petroleum exploration expenditure* to include expenditure to acquire an existing privilege if the existing privilege is a prospecting licence granted under Part 1 of the Petroleum Act 1937, coming into force on 1 April 2008. *Subclause (50)* replaces the definition of *petroleum permit* to include a prospecting licence and mining licence granted under Part 1 of the Petroleum Act 1937, coming into force on 1 April 2008. *Subclauses (51) and (52)* correct cross-refer-

ences in the definitions of *prescribed investor rate*, coming into force on 29 August 2011, and *project of limited duration*. *Subclause (53)* amends the definition of *property* retrospectively to 1 April 2008, reflecting the insertion of *section FB 1B* and the amendment of *section FC 1*. *Subclause (54)* amends the definition of *property* to update cross-references inserted by an amendment coming into force on 1 April 2011. *Subclause (55)* amends the definition of *public unit trust* to ensure approved unit trusts continue to be taxed as a trust under the Act. *Subclause (56)* amends the definition of *research* as part of the new R&D tax loss rules. *Subclauses (57) to (59)* insert definitions of *R&D expenditure*, *R&D material*, and *R&D repayment tax* as part of the new R&D tax loss rules. *Subclause (60)* corrects a reference in the definition of *right*. *Subclause (61)* amends the definition of *services* as a consequence of the insertion of the new R&D tax loss rules. *Subclause (62)* amends the definition of *settlement of relationship property* by updating a cross-reference to reflect the insertion of *section FB 1B* coming into force on 1 April 2008. *Subclause (63)* inserts a definition of *shareholding* as a consequence of the insertion of *section EX 51B* and the amendments to *sections EX 52* and *EX 53*. *Subclause (64)* inserts a definition of *tax credit for R&D tax losses* as part of the new R&D tax loss rules. *Subclauses (65) and (66)* replace the definition of *tax position* and insert a definition of *tax situation* to clarify that *sections HZ 4B* and *HZ 4D* do not apply to a *tax position* as that term is used elsewhere in the Act. *Subclause (67)* inserts a definition of *tertiary education institution* and a definition of *tertiary education subsidiary*, coming into force on 1 July 2008. *Subclause (68)* inserts a definition of *time of disposal* for a disposal of a business or part of a business, as a consequence of the changes made by *clause 219*. *Subclause (69)* repeals the definition of *time of the sale*, as a consequence of the changes made by *clause 219*. *Subclause (70)* provides for the retrospective application of the changes made by *subclause (42)*. *Subclause (71)* provides for the application of the changes made by *subclause (43)*. *Subclause (72)* provides for the retrospective application of the changes made by *subclause (49)* and includes a transitional provision protecting tax positions taken by taxpayers in relation to the definition of *petroleum exploration expenditure* for transactions entered into before the bill is introduced. *Subclause (73)* provides for the retrospective application of the changes made by *subclause (50)* and includes a transi-

tional provision protecting taxpayers who have taken tax positions in relation to the definition of *petroleum exploration expenditure* from effects of the changes on the application of *section DT 2*. *Subclause (74)* provides for the retrospective application of the changes made by *subclauses (53) and (62)*. *Subclause (75)* provides for the retrospective application of the changes made by *subclause (67)*.

Clause 214 amends *section YC 10*, which relates to the calculation of voting and market value interests for the purposes of the continuity rules. The amendment clarifies that 2 criteria must be satisfied for the section to apply.

Clause 215 amends *schedule 6*, which sets out prescribed rates, by amending *table 1B* to take account of the effect of double tax agreements on the prescribed rates applied by a foreign investment variable-rate PIE to income attributed to notified foreign investors. The amendment is effective from *1 April 2012*.

Clause 216 amends *schedule 14* by adding design registrations, design registration applications, and the copyright in artistic works applied industrially, to the list of items of depreciable intangible property.

Clause 217 inserts *new schedule 22*, which sets out proscribed R&D activities.

Clause 218 amends *schedule 32* to update the name of a recipient of charitable or other public benefit gifts, and to insert the names of new organisations as recipients.

Clause 219 amends the provisions set out in *schedule 2* of the Bill by changing certain sale-related terms and definitions as set out in the schedule.

Clause 220 amends the lists of defined terms in the provisions set out in *schedule 3* of the Bill, by making the corrections set out in the schedule.

Part 4

Amendments to other enactments

Amendments to Tax Administration Act 1994

Clause 221 sets out the clauses that affect the *Tax Administration Act 1994*.

Clause 222 amends section 3, by repealing the redundant definition of *IR5 taxpayer* and removing redundant subparagraphs from the definition of *late payment penalty*.

Clause 223 amends section 15E to correct a cross-reference.

Clause 224 repeals section 24O to remove the requirement for agricultural, horticultural or viticultural employers to provide certain information in their employer monthly schedules. The amendment is effective from *1 April 2008*.

Clauses 225 and 226 amend sections 33AA and 33A to limit the situations in which a person who receives certain types of income is required to file an annual return of income.

Clause 227 amends section 41 to remove the requirement that a person must inform the Commissioner if they are receiving family assistance tax credits.

Clause 228 repeals redundant section 68C, which relates to member credit forms for members of KiwiSaver schemes and complying superannuation funds.

Clause 229 repeals redundant sections 68D, 68E, and 68F, which relate to statements for research and development tax credits, consequentially on the repeal of subpart LH of the Income Tax Act 2007.

Clause 230 inserts *new section 70C*, which requires a person to provide a statement in electronic form for a tax year to the Commissioner if the person claims tax credits for R&D tax losses for the tax year or is liable to pay R&D repayment tax for the tax year. The section also provides for the due date for payment of R&D repayment tax.

Clause 231 amends section 80D, which gives the situations in which the Commissioner is required to issue an income statement. Currently, the Commissioner is required to issue a statement to an employee who must provide an employer monthly schedule for their PAYE income. The amendment limits the Commissioner's requirement to circumstances in which the employer is not required to provide an employer monthly schedule.

Clause 232 replaces section 80KV to enable a person and their spouse, civil union partner, or de facto partner to submit separate family scheme income declaration forms.

Clause 233 amends section 81A to widen the authorisation given to the Commissioner by the section for the disclosure of information under approved information sharing agreements.

Clause 234 amends section 89AB, which specifies response periods for disputes procedures and challenges, by making the section subject to *section 89AC*.

Clause 235 inserts *new section 89AC*, which specifies when time starts to run for a response period if a taxpayer is late in issuing a disputes document.

Clause 236 amends section 89M to clarify that the Commissioner does not need to file a statement of position, in certain circumstances, where the disputant and the Commissioner reach agreement in writing on the procedure for resolving a dispute.

Clause 237 repeals section 92AAA to remove the requirement for the Commissioner to issue a determination on the cost of timber.

Clause 238 inserts *new section 97C*, which authorises the Commissioner to make an assessment of R&D repayment tax for a company who is required to repay cashed-out R&D losses.

Clause 239 repeals section 113C, which relates to attributed repatriation.

Clause 240 amends section 120B in relation to the exceptions to the requirement to file returns of income.

Clause 241 amends section 138G, to provide that when the Commissioner does not need to file a statement of position, in certain circumstances, the limitations as to the subject matter of challenges do not apply to the Commissioner in proceedings. The amendment relates to the amendment to section 89M.

Clause 242 amends section 139AA, to insert an item missing from a list of the people affected by the section. The amendment is effective from *1 October 2007*.

Clause 243 amends section 139B, which relates to late payment penalties, to remove a reference to another section that is no longer relevant.

Clause 244 amends section 141A, by repealing a subsection consequential on the repeal of a discretion relating to shortfall penalties. The amendment is effective from *1 April 2008*.

Clause 245 repeals section 177D, which relates to new start grants.

Clause 246 amends section 183ABA to clarify the nature of the emergency event for which remission of interest is available.

Clause 247 amends section 185 to clarify that section 185(1)(c) provides permanent legislative authority for payment by the Crown of any interest that is payable by the Commissioner under the Income Tax Act 2007. The amendment is effective from *1 April 2008*.

Amendments to Goods and Services Tax Act 1985

Clause 248 sets out the clauses that affect the Goods and Services Tax Act 1985.

Clause 249 amends section 2 to insert definitions of *body corporate* and *common property* as part of the changes made to clarify how supplies made to and by bodies corporate are treated for GST purposes.

Clause 250 amends section 5 to clarify the tax treatment of amounts paid by a member to the body corporate. The section also provides for the treatment of the reserves of the body corporate when a body corporate becomes a registered person.

Clause 251 amends section 10 to prescribe a value of zero for the supply of common property by a body corporate.

Clause 252 repeals section 48A which relates to new start grants.

Clause 253 amends section 51, which relates to registration under the Act, to provide that the value of supplies made by a body corporate to its members are not taken into account in determining if the body corporate is required to be a registered person. The amendment also includes a requirement that a registration requested by a body corporate on or after the date of introduction of the Bill have effect after the date of the request.

Clause 254 amends section 52, which relates to cancellation of registrations, to provide that the registration of a body corporate may not be cancelled during a period of 4 years from the date of registration, or from a date before the application for cancellation.

Amendments to the Income Tax Act 2004

Clause 255 sets out the clauses that amend the Income Tax Act 2004.

Clause 256 inserts *new section CF 4* to provide that a person is treated as having no FIF income or loss from certain interests that they have in foreign superannuation schemes before 1 April 2014. The amendment is effective from *31 March 2008*.

Clause 257 amends section DB 23 to clarify that when a person enters into a financial arrangement in the ordinary course of their business, the capital limitation does not apply to deny them a bad debt deduction. The amendment is effective from *1 April 2005*.

Clause 258 amends section NG 1, which relates to NRWT, by removing some cross-references relating to RWT with effect from *1 April 2005*.

Amendments to Income Tax Act 1994

Clause 259 sets out the clauses that amend the Income Tax Act 1994.

Clause 260 inserts *new section CC 5* to provide that a person is treated as having no FIF income or loss from certain interests that they have in foreign superannuation schemes before *1 April 2014*. The amendment is effective from *31 March 2005*.

Clause 261 amends section NG 1, which relates to NRWT, by removing some cross-references relating to RWT.

Amendments to Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014

Clause 262 sets out the clauses that affect the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014.

Clause 263 amends section 2 to correct a cross-reference.

Clause 264 amends section 129 to delay the application date of the net assets tax rules for charities that are deregistered and whose purposes or activities are predominantly the provision of housing.

Clause 265 amends section 144 to repeal the amendment related to the definition of *distinctive work clothing*. The section also repeals the amendment that retrospectively replaces the definition of *minister of religion*.

Amendment to Finance Act (No. 2) 1990

Clause 266 amends section 3, to ensure that there is no circularity in the definition of *unit trust* in section YA 1 of the Income Tax Act 2007.

***Amendment to Goods and Services Tax (Grants
and Subsidies) Order 1992***

Clause 267 inserts *item 8* into the schedule to the Amendment to Goods and Services Tax (Grants and Subsidies) Order 1992, to provide that the Commissioner's payment of a tax credit for R&D tax losses is not a taxable grant or subsidy under the Goods and Services Tax Act 1985.

Schedules

Schedule 1 contains *schedule 22* (Proscribed R&D activities), which is inserted by *clause 217* into the Income Tax Act 2007.

Schedule 2 contains a list of amendments made by *clause 219* to sale-related terms and definitions in the Income Tax Act 2007.

Schedule 3 contains a list of amendments made by *clause 220* to lists of defined terms in the Income Tax Act 2007.

Hon Todd McClay

**Taxation (Annual Rates
for 2015–16, Research and
Development, and Remedial
Matters) Bill**

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**.

2 Commencement

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) **Part 1** comes into force on the day after the date on which this Act receives the Royal assent except—
 - (a) **sections 5, 15, 23, 28(2), 49(1) and (2), and 50(2) to (7)** come into force on 1 April 2015:
 - (b) **sections 31(2), 40(3) and (4), and 41(2)** come into force on 1 April 2016:
 - (c) **Sections 52, 56, and 57** come into force on the date on which this Act receives the Royal assent.
- (3) **Sections 249(1), 250(1), and 253(1)** come into force on 1 October 1986.
- (4) **Section 261** comes into force on 1 April 1997.
- (5) **Section 250(3)** comes into force on 10 October 2000.
- (6) **Section 260** comes into force on 31 March 2005.
- (7) **Sections 257 and 258** come into force on 1 April 2005.
- (8) **Section 242** comes into force on 1 October 2007.
- (9) **Section 256** comes into force on 31 March 2008.
- (10) **Sections 84(4) and (7), 97, 98, 100, 101, 103, 108, 120, 141(4), 144, 149, 150, 151, 152, 157(1), (2), and (3), 159, 160, 167, 169, 170, 175, 176, 183, 190, 193, 196, 197, 198, 199, 202, 205, 213(42), (49), (50), (53), (62), (70), (72), (73), and (74), 223, 224, 244, and 247** come into force on 1 April 2008.
- (11) **Sections 76 and 213(67) and (75)** come into force on 1 July 2008.
- (12) **Section 171** comes into force on 1 April 2009.
- (13) **Section 157(4), (5), (6), and (7)** come into force on 30 June 2009.
- (14) **Sections 128 and 129** come into force on 1 July 2009.
- (15) **Section 213(17) and (18)** come into force on 5 January 2010.
- (16) **Sections 78, 172, 173, and 174** come into force on 1 April 2010.
- (17) **Section 80** comes into force on 4 September 2010.
- (18) **Sections 82, 83, 105, 109(2), (3), and (5), 122, 188, 189, and 213(54)** come into force on 1 April 2011.

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- (19) **Section 249(2)** comes into force on 20 June 2011.
- (20) **Sections 134 and 140(2) and (7)** come into force on 1 July 2011.
- (21) **Section 213(51)** comes into force on 29 August 2011.
- (22) **Section 69** comes into force on 28 March 2012. 5
- (23) **Section 215** comes into force on 1 April 2012.
- (24) **Sections 89, 90, 91, 92, 93, 94, and 95** come into force on 1 April 2013.
- (25) **Section 84(1), (2), (3), and (5)** come into force on 20 May 2013. 10
- (26) **Sections 81 and 213(14) and (37)** come into force on 1 July 2013.
- (27) **Sections 71(1), (3), (5), (6), and (9), 75(1), 96(1), 121(1) and (2), 133, 136, 140(1), (3), (6), and (8), 145, 168, 186, 213(22), (23), (24), (25), (26), (29), (34), and (48), 226, 231, and 251(1)** come into force on 1 April 2014. 15
- (28) **Section 264** comes into force on 14 April 2014.
- (29) **Section 218(1)** comes into force on 20 June 2014.
- (30) **Sections 204, 263, and 265** come into force on 30 June 2014. 20
- (31) **Sections 207, 208, 209, 210, 211, and 212** come into force on 3 July 2014.
- (32) **Sections 249(3), 250(2), 251(2), 253(2), and 254** come into force on the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill. 25
- (33) **Sections 70, 71(2), (4), (7), and (8), 72, 73, 85, 86, 87, 88, 99, 102, 104, 106, 107, 109(1), (4), and (6), 110, 111, 112, 113, 114, 115, 116, 117, 121(3), 146, 153, 154, 155, 156, 158, 180, 181, 182, 184, 187, 192, 194, 195, 206, 213(2), (5), (6), (7), (8), (9), (10), (11), (12), (13), (16), (27), (28), (31), (33), (35), (36), (38), (39), (40), (45), (46), (47), (52), (56), (57), (58), (59), (61), (64), (68), and (69), 216, 217, 218(2), (3), and (4), 219, 228, 229, 230, 237, and 238** come into force on 1 April 2015. 30 35

- (34) **Sections 118, 119, 126, 137, 138, 139, 147, 165, 191, 200, 201, 213(43) and (71), 225, 240, 243, and 267** come into force on 1 April 2016.

Part 1

Child support remedial matters

5

Amendments to Child Support Act 1991

3 Child Support Act 1991 amended

Sections 4 to 50 amend the Child Support Act 1991.

4 Section 2 amended (Interpretation)

- (1) In section 2(1), definition of **last relevant tax year**, paragraph (a), delete “and has no adjustments of the sort referred to in section 35(1),”.

- (2) In section 2(1), replace the definition of **receiving carer** with:
“**receiving carer** means—

“**(a)** a carer of a qualifying child who the Commissioner determines under section 17 is a receiving carer of the child; or

“**(b)** a person who is entitled to receive child support under section 58(1) or 68(1)”.

- (3) In section 2(1), definition of **social security benefit**, replace paragraph (c)(iii) with:

“(iii) subject to **subsection (1A)**, jobseeker support.”.

- (4) After section 2(1), insert:

“(1A) The reference to jobseeker support in **paragraph (c)(iii)** of the definition of social security benefit in subsection (1) does not include jobseeker support in a case where the benefit is granted under section 88C(2) or (3) of the Social Security Act 1964 during a period starting on or after 1 October 2015.”

5 Section 3A amended (Transitional and savings provisions relating to amendments to this Act)

30

- (1) In the heading to section 3A, replace “**Transitional**” with “**Application, transitional**,”.

- (2) In section 3A, replace “transitional” with “application, transitional,”.

- 6 Section 4A amended (Overview of child support payable under formula assessment)**
In section 4A(1), delete “by a liable parent”.
- 7 Section 8 amended (Who may apply for formula assessment)** 5
Replace section 8(1) with:
“(1) Any parent or carer of a qualifying child may apply to the Commissioner for a formula assessment of child support payable in respect of the child.”
- 8 Section 13 amended (Notification by Commissioner of application)** 10
(1) In section 13(2), delete “, in order to ascertain the matters listed in subsection (1),”.
(2) After section 13(3), insert:
“(4) The Commissioner’s duty to ascertain the matters listed in subsection (1) is subject to **section 13A**.” 15
- 9 New section 13A inserted (Cases where formula assessment to be refused)**
After section 13, insert:
“**13A Cases where formula assessment to be refused** 20
“(1) The Commissioner must refuse to make a formula assessment in respect of a qualifying child if **subsection (2) or (4)** applies.
“(2) This subsection applies if the applicant is living with a parent of the child in a marriage, civil union, or de facto relationship. 25
“(3) However, **subsection (2)** does not apply if—
“(a) the applicant is a parent of the child; and
“(b) the child has—
“(i) a parent with whom the applicant is not living in a marriage, civil union, or de facto relationship; or 30
“(ii) a non-parent carer with whom the applicant is not living in a marriage, civil union, or de facto relationship and who the Commissioner determines is a receiving carer.

- “(4) This subsection applies if the applicant is a non-parent carer of the child who the Commissioner determines is not a receiving carer.
- “(5) If the Commissioner refuses to make a formula assessment under this section, the Commissioner must notify the applicant of the refusal (and withdraw any notices given under section 13).” 5
- 10 Section 25 amended (When liability to pay child support ceases)**
- (1) Repeal section 25(3)(e). 10
- (2) After section 25(3), insert:
- “(4) **Subsection (5)** applies if the Commissioner accepts an election under **section 27** to end a formula assessment as it applies in respect of a qualifying child.
- “(5) A liable parent ceases to be liable to pay child support in respect of the qualifying child under the formula assessment on— 15
- “(a) the day on which the Commissioner received the notice of election; or
- “(b) if the notice of election specified a later day on which the formula assessment as it applies in respect of the qualifying child is to end, that later day.” 20
- 11 Section 27 replaced (Election by receiving carer to end formula assessment)**
- Replace section 27 with: 25
- “27 Election by receiving carer to end formula assessment**
- “(1) Where a formula assessment applies in respect of a qualifying child (**child C**), a person may by notice to the Commissioner elect to end the formula assessment as it applies in respect of child C. 30
- “(2) If a person (**person P**) does so, the Commissioner must accept the election if satisfied that the election qualifies for acceptance (and may refuse to accept the election if not so satisfied) (*see section 25(4) and (5)* for the effect of the Commissioner’s acceptance of the election). 35
- “(3) The election qualifies for acceptance if—

- “(a) person P is a recognised carer of child C by virtue of **subsection (6)(a)**; and
- “(b) every other recognised carer of child C (if any) agrees to the election.
- “(4) However, the election does not qualify for acceptance if a recognised carer of child C is, or is expected to be, on the day referred to in **section 25(5)(a) or (b)** (as the case may be),—
- “(a) a social security beneficiary by virtue of paragraph (a), (c), or (d) of the definition of social security benefit in section 2(1); or
- “(b) a social security beneficiary by virtue of paragraph (b) of that definition where the unsupported child’s benefit is granted in respect of child C.
- “(5) In determining whether to accept the election, the Commissioner—
- “(a) may act on the basis of any information accompanying the notice of election and any other information in the Commissioner’s possession; and
- “(b) is not required to conduct any enquiries or investigations into the matter.
- “(6) For the purposes of this section, a **recognised carer of child C** is a person who is either of the following at the time the Commissioner receives the notice of election:
- “(a) a receiving carer of child C under the formula assessment;
- “(b) a parent of child C who is not a receiving carer of child C under the formula assessment but who provides at least 28% of ongoing daily care to child C.
- “(7) The Commissioner’s acceptance of the election is final, unless overturned in accordance with **subsection (8) or (9)**.
- “(8) The acceptance may be overturned, wholly on the basis of information in the Commissioner’s possession at the time of the acceptance,—
- “(a) under Part 6, on an objection to the acceptance made under **section 90(1)(bb)**; or
- “(b) under Part 7, on an appeal against the Commissioner’s disallowance of an objection to the acceptance made under **section 90(1)(bb)**.

- “(9) The Commissioner may overturn the acceptance if a person who the Commissioner regarded as being a recognised carer of child C when accepting the election is a social security beneficiary of the kind referred to in **subsection (4)(a) or (b)** on the day referred to in **section 25(5)(a) or (b)** (as the case may be). 5
- “(10) Without affecting the acceptance, subsequent changes may be made to the receiving carers or liable parents, or to their entitlements or liabilities, under the formula assessment in respect of times before the day referred to in **section 25(5)(a) or (b)** (as the case may be) (and the acceptance does not prevent a person applying for a new formula assessment in respect of child C). 10
- “(11) A notice of election must be given using an approved form or given in another way approved by the Commissioner.”
- 12 Section 32 amended (Minimum annual rate of child support) 15**
- (1) In section 32, after “child support payable”, insert “under a formula assessment”.
- (2) In section 32(b), replace “qualifying children of the liable parent that each” with “the liable parent’s qualifying children in respect of whom a formula assessment applies that each receiving”. 20
- 13 Section 34 amended (Child support income amount)**
In section 34(1), replace “relevant tax” with “child support”.
- 14 Section 35 amended (Adjusted taxable income) 25**
- (1) Replace section 35(1) to (5) with:
- “(1) A person’s **adjusted taxable income** for a child support year is—
- “(a) the person’s income from employment for the calendar year immediately preceding the start of the child support year if, in the most recent tax year, the person’s taxable income was derived solely from withholding income; or 30
- “(b) if **paragraph (a)** does not apply, the person’s taxable income in the tax year immediately preceding the most 35

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recent tax year, inflated by the inflation percentage for the child support year.”

(2) Replace section 35(7) with:

“(7) This section is subject to—

“(a) sections 38 to 39A (which relate to ascertaining taxable income, etc); and

“(b) sections 40AA to 44A (which permit elections for adjusted taxable income to be assessed using estimated taxable income).”

15 Section 35A amended (Living allowance)

10

Replace section 35A(2)(a) to (c) with:

“(a) for every person other than a person identified in **paragraph (b)**, the rate set out in clause 1 of Schedule 3A of the Social Security Act 1964 (ignoring the reference to Income Test 1):

15

“(b) for a person granted a supported living payment under section 40B or 40D of the Social Security Act 1964 who is, for the purposes of that benefit, a single beneficiary with 1 or more dependent children, the rate set out in clause 1(c) of Schedule 6 of that Act (ignoring the reference to Income Test 1).”

20

16 Section 39A amended (Commissioner may take overseas income into account)

(1) Replace section 39A(3)(b) with:

“(b) references to “tax year” and “relevant tax year” are references to—

25

“(i) income periods of the relevant country that most appropriately correspond to the equivalent New Zealand periods; or

“(ii) such other periods as the Commissioner considers appropriate in the circumstances.”

30

(2) In section 39A(3)(d) to (g), delete “taxable”.

17 Section 40AA amended (Interpretation for purposes of sections 40 to 45)

- (1) In section 40AA, definition of **election**, replace “original taxable income” with “income referred to in **section 35(1)(a) or (b)**”. 5
- (2) In section 40AA, repeal the definition of **original taxable income**.

18 Section 40 amended (Estimated taxable income)

- (1) In section 40(1), replace “the taxable income” with “the income”. 10
- (2) In section 40(2) and (4)(e), replace “original taxable income” with “original adjusted taxable income”.

19 Section 41 amended (Effect of election)

Replace section 41(1) with:

- “(1) If the Commissioner accepts an election made by a person, the Commissioner must determine the person’s adjusted taxable income by calculating the person’s annualised estimated taxable income.” 15

20 Section 42 amended (Revocation of election and subsequent elections) 20

In section 42(2)(b), replace “original taxable income” with “original adjusted taxable income”.

21 Section 44 amended (End-of-year reconciliation)

- (1) In section 44(1), replace “based on the income amount determined under subsection (2)” with “treating the amount determined under subsection (2) as the person’s adjusted taxable income”. 25
- (2) In section 44(2), replace “income amount to be used for” with “amount to be treated as the person’s adjusted taxable income for the purposes of”. 30
- (3) In section 44(2)(a), replace “the value of any adjustments made under section 41(1)(b)” with “nil”.
- (4) In section 44(2)(b)(i), delete “, and adjusted in accordance with section 41(1)(b)”.

- 22 Section 44A amended (Determining income amount if no tax return filed)**
In section 44A(2), replace “used” with “treated as the person’s adjusted taxable income”.
- 23 Section 45 repealed (Penalty if estimated income less than 80% of actual income)** 5
Repeal section 45.
- 24 Section 51 amended (Exception in respect of child support voluntary agreement where formula assessment in force)**
- (1) In the heading to section 51, replace “in force” with “applies”. 10
- (2) In section 51(a), replace “is in force requiring one party to the agreement to pay child support to the other” with “applies”.
- (3) Replace section 51(b) with:
“(b) the Commissioner has not accepted an election under **section 27** to end the formula assessment as it applies 15
in respect of the child.”
- 25 Section 88 amended (Notice of assessment of formula assessment of child support)**
Replace section 88(2) with:
- “(2) As a minimum, the notice of assessment must set out, in relation to each qualifying child to whom the notice relates, the matters identified in section 88A so far as they are relevant to the assessment as it applies in respect of the child. 20
- “(2A) However, in no case may a notice of assessment reveal any more detail about another person who is a parent or carer than the person’s name (subject to subsection (5)) and, in relation to a qualifying child, the person’s proportion of care and care cost percentage.” 25
- 26 Section 88A amended (Details in notices of assessments)**
- (1) In section 88A(1), replace “A notice of assessment given to a liable parent must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates” with “The matters referred to in **section 88(2)** for a notice of assessment given to a liable parent are as follows”. 30

- (2) In section 88A(1)(f), after “income”, insert “or such other details as the Commissioner considers appropriate of any income of the liable parent taken into account in making the assessment”.
- (3) In section 88A(1)(g), replace “amount of the dependent child allowance for each dependent child” with “sum of any dependent child allowances to which the liable parent is entitled”.
- (4) In section 88A(2), replace “A notice of assessment given to a parent of a child who is a receiving carer must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates” with “The matters referred to in **section 88(2)** for a notice of assessment given to a parent of a child who is a receiving carer are as follows”.
- (5) In section 88A(2)(f), after “income”, insert “or such other details as the Commissioner considers appropriate of any income of the parent taken into account in making the assessment”.
- (6) In section 88A(2)(g), replace “amount of the dependent child allowance for each dependent child” with “sum of any dependent child allowances to which the parent is entitled”.
- (7) In section 88A(3), replace “A notice of assessment given under this section to a non-parent receiving carer of a child must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates” with “The matters referred to in **section 88(2)** for a notice of assessment given to a non-parent receiving carer of a child are as follows”.
- 27 Section 89L amended (Application for determination)**
After section 89L(3), insert:
“(4) The determinations that the Commissioner may make under this subpart are not limited by the terms of the application.”
- 28 Section 90 amended (Objections to appealable decisions)**
(1) After section 90(1)(ba), insert:
“(bb) a decision to accept an election under **section 27**:
“(bc) a decision not to accept an election under **section 27** (including a decision to overturn the acceptance of an election under **section 27(9)**):”.
- (2) In section 90(1)(d), delete “45 or”.

29 Section 91 amended (Objections to assessments)

(1) In section 91(1), after “an assessment”, insert “, other than an amended assessment”.

(2) After section 91(1), insert:

“(1A) An objection to an amended assessment may be made on any 5
or all of the grounds listed in subsection (1)(b) to (d), but—
“(a) on no other ground; and
“(b) only if the matters covered by the objection are at-
tributable to the amendment of the assessment.”

(3) In section 91(2), replace “who is affected by the assessment” 10
with “to whom the Commissioner is required to give notice of
the assessment under section 88 or 89”.

(4) Repeal section 91(3).

**30 Section 96C amended (Matters as to which Commissioner
must be satisfied before making determination)** 15

(1) In section 96C(2)(b), after “105(3)”, insert “; and”.

(2) After section 96C(2)(b), insert:

“(c) **section 105(2)(d)** has effect subject to **section
105(3D)**.”

(3) In section 96C(3), after “Subsections”, insert “**(3C)** and”. 20

31 Section 96D amended (Determinations that may be made)

(1) After section 96D(1)(b), insert:

“(ba) **section 106A** (further provision on orders for re-estab-
lishment costs situations if income increases):”.

(2) After **section 96D(1)(ba)** (as inserted by **subsection (1)** of 25
this section), insert:

“(bb) **section 106B** (further provision on orders for offset-
ting of liabilities situations):”.

(3) After section 96D(1), insert:

“(1A) The determinations that the Commissioner may make under 30
subsection (1) are not limited by the terms of the application
under section 96B.”

- 32 Section 96X amended (Commissioner to notify receiving carers and liable parent who is not subject parent)**
- (1) In the heading to section 96X, replace “**who is not subject parent**” with “**with rights of election under section 96Y**”.
 - (2) In section 96X, replace “the receiving carers and any liable parent who is not the subject parent” with “any receiving carer or liable parent who has rights of election under section 96Y”. 5
- 33 Section 96Y amended (Election by receiving carer or by liable parent who is not subject parent to become party or discontinue proceedings)** 10
- (1) In the heading to section 96Y, delete “**who is not subject parent**”.
 - (2) In section 96Y(1), replace “receiving carer, or any liable parent who is not the subject parent,” with “relevant person (*see subsection (8)*)”. 15
 - (3) In section 96Y(2), replace “receiving carer, or a liable parent who is not a subject parent,” with “relevant person”.
 - (4) In section 96Y(3), replace “receiving carer or liable parent” with “relevant person” in each place.
 - (5) In section 96Y(4), replace “receiving carer or by a liable parent who is not the subject parent” with “relevant person”. 20
 - (6) In section 96Y(5), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”.
 - (7) In section 96Y(6), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”. 25
 - (8) After section 96Y(6), insert:
 - “(7) However, if there is more than 1 relevant person, the Commissioner must not discontinue the proceedings unless each relevant person has elected under subsection (2) to discontinue them. 30
 - “(8) In this section and sections 96Z and 96ZA, **relevant person** means—
 - “(a) a receiving carer who is not the subject parent; or
 - “(b) a liable parent who is not the subject parent.”
- 34 Section 96Z amended (Written representations by parties)** 35
- (1) Replace section 96Z(2)(b)(ii) with:

- “(ii) in the case of a relevant person (*see* **section 96Y(8)**), within 14 days after the date on which the relevant person is sent notification under section 96X.”
- (2) In section 96Z(3), replace “the receiving carer or liable parent who is not the subject parent” with “a relevant person”. 5
- (3) In section 96Z(4), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”.
- (4) In section 96Z(5), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”. 10
- 35 Section 96ZA amended (Procedure for making determination)**
In section 96ZA(4), replace “receiving carer or liable parent who is not the subject parent” with “relevant person (*see* **section 96Y(8)**)”. 15
- 36 Section 98 amended (Minimum liability in respect of child support)**
In section 98(2A), replace “qualifying children of the liable parent” with “the liable parent’s qualifying children in respect of whom a formula assessment applies”. 20
- 37 Section 99 amended (Declarations in respect of step-parents)**
- (1) In section 99(1), delete “receiving”.
- (2) Replace section 99(3) with:
- “(3) Subject to section 125, the parties to the proceeding are— 25
- “(a) the applicant for the declaration under this section; and
- “(b) the person whom the application seeks to be declared to be a step-parent of the child (if that person is not the applicant); and
- “(c) any other person who is a parent or carer of the child 30
when the application is made.”
- 38 Section 102 amended (Appeals against decisions of Commissioner)**
Replace section 102(3) with:

“(3) Subject to section 125, the parties to the appeal are the objector and the Commissioner.”

39 Section 103 amended (Appeals against assessments)

(1) In section 103(1), replace “any person affected by the assessment” with “the objector”. 5

(2) Replace section 103(3) with:

“(3) Subject to section 125, the parties to the appeal are the objector and the Commissioner.”

(3) In section 103(6), replace “the persons concerned,” with “a person affected by the assessment that was objected to,”. 10

40 Section 105 amended (Matters as to which court must be satisfied before making order)

(1) In section 105(2)(c)(iii), replace “interest.” with “interest; or”.

(2) After section 105(2)(c), insert:

“*Re-establishment costs situation if income increases* 15

“(d) that the application in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of child support to be provided by the liable parent for the child in respect of a child support year because— 20

“(i) the adjusted taxable income of a parent of the child for the child support year includes income from relevant additional work (*see subsections (3A) to (3C)*); and 25

“(ii) some or all of the income from relevant additional work has been used, or will be used, by the parent to meet, wholly or partly, actual and reasonable costs incurred to re-establish himself or herself, and any child or other person that he or she has a duty to maintain, after the child’s parents ceased to live together in a marriage, civil union, or de facto relationship.” 30

(3) In **section 105(2)(d)(ii)** (as inserted by **subsection (2)** of this section), replace “relationship.” with “relationship; or”. 35

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- (4) After **section 105(2)(d)** (as inserted by **subsection (2)** of this section), insert:

“Offsetting of liabilities situation

- “(e) that it would be just and equitable to offset one liability against another, if 2 persons are each liable to pay in respect of the other an amount of child support under a formula assessment (whether or not those amounts have become due and payable).”

- (5) After section 105(3), insert:

“(3A) In **subsection (2)(d)**, **relevant additional work** means work done by the parent during the relevant 3-year period that, in quantity or nature or both, is additional to work that he or she did before the child’s parents ceased to live together in a marriage, civil union, or de facto relationship.

“(3B) In **subsection (3A)**, **the relevant 3-year period** means the 3-year period starting on the date on which the child’s parents ceased to live together in a marriage, civil union, or de facto relationship.

“(3C) For the purpose of calculating that 3-year period, the court may exclude a period or periods of resumed cohabitation with, or each with, the sole or main motive of reconciliation if that period does not exceed, or those periods in aggregate do not exceed, 3 months.

“(3D) The ground in **subsection (2)(d)** applies only in relation to child support in respect of the child support year starting on 1 April 2016 or a later child support year.”

41 New sections 106A and 106B inserted

- (1) After section 106, insert:

“**106A Further provision on orders for re-establishment costs situations if income increases** 30

The amount that an order under section 106 on the ground in **section 105(2)(d)** excludes, or in effect excludes, from the parent’s adjusted taxable income is not to exceed the lesser of the following:

- “(a) so much of the income from relevant additional work as has been used, or will be used, by the parent as referred to in **section 105(2)(d)(ii)**: 35

- “(b) 30% of the parent’s adjusted taxable income.”
- (2) After **section 106A** (as inserted by **subsection (1)** of this section), insert:
- “**106B Further provision on orders for offsetting of liabilities situations** 5
- “(1) An order under section 106 on the ground in **section 105(2)(e)** may provide for the offsetting of liabilities in cases involving all or any of the following:
- “(a) liabilities in respect of the 2 persons caring at different times for the same child: 10
- “(b) liabilities in respect of the 2 persons caring at the same time for 2 or more different children:
- “(c) liabilities in respect of different child support years:
- “(d) liabilities in respect of child support years ending before 1 April 2016 (that is, the date of commencement of this section and **section 105(2)(e)**): 15
- “(e) liabilities under different formula assessments.
- “(2) **Subsection (1)** does not limit **section 105(2)(e)**.
- “(3) However, an order under section 106 on the ground in **section 105(2)(e)** may not apply in respect of— 20
- “(a) any liability of a person in respect of a period if during that period the person is expected to be, or (as the case requires) was, a social security beneficiary; or
- “(b) a penalty payable under section 134; or
- “(c) a liability that has been offset under section 152B. 25
- “(4) In relation to a liability in respect of a child support year ending before 1 April 2015 (that is, the commencement date defined in clause 1 of Schedule 1), any order is to be made under old section 106 in accordance with **clause 1A** of Schedule 1 and the orders that may be made include an order varying the 30
annual rate of child support payable by a parent in respect of that child support year.
- “(5) In **subsection (4)**, **old section 106** is to be read in accordance with clause 1 of Schedule 1 (*see* the definition of old provisions). 35
- “(6) An order under section 106 on the ground in **section 105(2)(e)** may be made only on an application made on or after 1 April 2016.”

- 42 Section 107 amended (Implementation of orders)**
After section 107(3), insert:
- “(4) Without limiting subsections (1) to (3), the Commissioner may, in taking action under any of those subsections, apply some or all of the provisions of this Act relating to the amount of child support payable in relation to a receiving carer under a formula assessment (for example, sections 36A to 36C) with the modifications the Commissioner considers necessary to achieve fully the intention of the court’s order.” 5
- 43 Section 129 replaced (Right to choose payment method)** 10
Replace section 129 with:
- “129 Right to choose voluntary automatic deductions or other payment method**
- “(1) Subject to sections 130 and 131, any person who is liable to pay financial support under this Act must pay the money so payable to the Commissioner— 15
- “(a) by way of automatic deduction under Part 10 from source deduction payments paid by an employer of the person, if the conditions in **subsection (2)** are met; or
- “(b) if those conditions are not met, by any other payment method acceptable to the Commissioner. 20
- “(2) The conditions are that—
- “(a) the person is, or will be, the recipient of source deduction payments from the employer; and
- “(b) the person chooses, in a way acceptable to the Commissioner, for deductions in respect of future payments of financial support to be made from source deduction payments paid by the employer; and 25
- “(c) the Commissioner does not consider automatic deductions inappropriate in the person’s case.” 30
- 44 Section 130 amended (Defaulters to pay child support by automatic deduction)**
Replace section 130(b) with:
- “(b) that payment, and those further payments, of financial support are to be paid— 35
- “(i) by way of automatic deduction under Part 10; or

“(ii) if the Commissioner considers automatic deduction inappropriate in the person’s case, by another payment method acceptable to the Commissioner.”

- 45 Section 154 amended (Deduction notice)** 5
In section 154(1), replace “Where, in accordance with section 130 or section 131, financial support is payable by way of automatic deduction, the Commissioner may, for the purpose of collecting that financial support, give a notice to any person” with “The Commissioner may, for the purpose of collecting financial support by way of automatic deduction in accordance with any of sections **129** to 131, give a notice to any person”. 10
- 46 Section 158 amended (Life of deduction notices)**
After section 158(2), insert:
- “(3) A person who has chosen under **section 129** to pay financial support by way of automatic deduction under this Part may at any time choose, in a way acceptable to the Commissioner, to stop automatic deduction. 15
- “(4) In that case, the Commissioner must revoke any relevant deduction notice under subsection (2)(a) unless section 130 or 131 applies.” 20
- 47 Section 180 amended (Payee may uplift financial support debt)**
Replace section 180(2)(b) with:
- “(b) under subsection (1)(b), if the payee is not a social security beneficiary at the time the child support is payable unless, at the time of the making of the election,— 25
- “(i) the Commissioner has accepted an election under **section 27** that covers the liability of the liable parent to pay child support; or 30
- “(ii) the payee elects that the liability of the liable parent to pay child support is to end under section 64 or 70.”

- 48 Section 240 amended (Secrecy)**
In section 240(2)(a)(ii), replace “parent” with “spouse or partner” in each place.
- 49 Section 276 amended (Transitional and savings provisions relating to amendments to Act)** 5
- (1) In the heading to section 276, replace “**Transitional**” with “**Application, transitional,**”.
- (2) In section 276, replace “transitional” with “application, transitional,”.
- (3) In section 276, insert as subsection (2): 10
- “(2) The application, transitional, and savings provisions are set out in the following Parts of Schedule 1:
- | Part heading | Part of Schedule 1 |
|--|---------------------------|
| Child Support Amendment Act 2013,
etc: provisions relating to amendments
effective on 1 April 2015 | 1 |
| Taxation (Annual Rates for 2015–16,
Research and Development, and Remedial
Matters) Act 2015 | 1A |
- 50 Schedule 1 amended**
- (1) In Schedule 1, before clause 1, insert: 15
- “Part 1**
“Child Support Amendment Act 2013,
etc: provisions relating to amendments
effective on 1 April 2015”.
- (2) In Schedule 1, clause 1, definition of **commencement date**, replace “Part 1 (except sections 6, 18, 19, 19A, 31, and 32) of the Child Support Amendment Act 2013 comes” with “the enactments listed in **clause 1A(2)** come”. 20
- (3) In Schedule 1, clause 1, definition of **new assessment**, delete “and applying after the commencement date to the child support year ending on 31 March 2016”. 25
- (4) In Schedule 1, clause 1, definition of **new provisions**, replace “Part 1 of the Child Support Amendment Act 2013” with “the enactments listed in **clause 1A(2)**”.

- (5) In Schedule 1, clause 1, definition of **old provisions**, replace “Part 1 of the Child Support Amendment Act 2013 comes” with “the enactments listed in **clause 1A(2)** come”.
- (6) In Schedule 1, after clause 1, insert:
- “1A Application of Act to financial support for child support years ending before 1 April 2015** 5
- “(1) This Act applies on and after 1 April 2015 in relation to financial support in respect of a child support year ending before that date as if the amendments made by the enactments listed in **subclause (2)** had not been made. 10
- “(2) The enactments are:
- “(a) Part 1 of the Child Support Amendment Act 2013, except sections 6, 18, 19, 19A, 31, and 32:
- “(b) sections 206 to 215 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014: 15
- “(c) **sections 15, 23, and 28(2)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**.
- “(3) **Subclause (1)** does not prevent section 179A(3) from applying in relation to financial support in respect of a child support year ending before 1 April 2015. 20
- “(4) **Subclause (1)** does not limit the application of sections 17 to 19 of the Interpretation Act 1999 in relation to financial support in respect of a child support year ending before 1 April 2015. 25
- “(5) In this clause, references to financial support in respect of a child support year ending before 1 April 2015 include a reference to a penalty imposed under this Act (whether before, on, or after that date) that is treated as being of the same nature as an amount of such financial support.” 30
- (7) In Schedule 1, after clause 2, insert:
- “2A Reconciliation of estimation made under old provisions**
Without limiting **clause 1A**, old sections 44 to 45 continue to apply on and after the commencement date in relation to old assessments.” 35
- (8) In Schedule 1, after clause 8, insert:

“Part 1A

**“Taxation (Annual Rates for 2015–16,
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Matters) Act 2015**

- “8A Amendment of sections 4A, 8, and 13 and insertion of new section 13A (applications for formula assessments)** 5
The amendments made by **sections 6 to 9** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only in relation to applications for formula assessments made after the date on which that Act receives the Royal assent. 10
- “8B Amendment of sections 2(1), 34, 35, 40AA, 40, 41, 42, 44, and 44A (adjusted taxable income)**
The amendments made by **sections 4(1), 13, 14, and 17 to 22** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only in relation to child support in respect of the child support year commencing on 1 April 2016 or a later child support year. 15
- “8C Amendment of sections 25, 51, 90(1), and 180 and replacement of section 27 (election by receiving carer to end formula assessment, etc)** 20
The amendments made by **sections 10, 11, 24, 28(1), 47, and 60** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**—
“(a) apply only in relation to child support in respect of the child support year commencing on 1 April 2015 or a later child support year; but 25
“(b) do not apply in relation to a formula assessment as it applies in respect of a qualifying child if, on or before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent, a receiving carer of the child makes an election under section 27 of this Act that the liability of every liable parent to pay child support to the receiving carer in respect of the child under the formula assessment is to end. 30 35

- “8D Amendment of sections 88, 88A, 91, and 103 (notices of, and objections to, assessments)**
The amendments made by **sections 25, 26, 29, and 39** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only in relation to assessments made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year. 5
- “8E Amendment of sections 89L and 96D (determinations that may be made by Commissioner under subpart 3 of Part 5A or Part 6A)**
The amendments made by **sections 27 and 31(3)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only in relation to applications made after the date on which that Act receives the Royal assent. 10 15
- “8F Amendment of sections 96X, 96Y, 96Z, and 96ZA (proceedings under Part 6B)**
The amendments made by **sections 32 to 35** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only for cases where the Commissioner’s decision to start proceedings under Part 6B is made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year. 20 25
- “8G Amendment of section 99 (declarations in respect of step-parents)**
The amendment made by **section 37(2)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** applies only in relation to proceedings on applications made after the date on which that Act receives the Royal assent. 30

**“8H Amendment of section 102 (appeals against
Commissioner’s disallowance of objections)**

The amendment made by **section 38** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** applies only in relation to objections made after the date on which that Act receives the Royal assent. 5

“8I Amendment of section 107 (implementation of orders)

The amendment made by **section 42** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** applies only in relation to orders under section 106, or determinations under section 89M, 89N, 96D, or 96ZB, made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year. 10

**“8J Amendment of sections 130, 154, and 158 and replacement
of section 129 (payment of financial support)** 15

The amendments made by **sections 43 to 46** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply in relation to the payment of financial support after the date on which that Act receives the Royal assent (including where the liability to pay the financial support arises on or before that date).” 20

*Amendments to Child Support Amendment
Act 2013*

51 Child Support Amendment Act 2013 amended 25
Sections 52 to 64 amend the Child Support Amendment Act 2013.

52 Section 2 amended (Commencement)

Replace section 2(4) with:

“(4) Sections 40(1), 41, 42, 44, and 45 come into force on the day after the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent. 30

“(5) The rest of Part 2 comes into force on 1 April 2016.”

-
- 53 Section 37 and cross-heading above section 37 repealed**
Repeal section 37 and the cross-heading above section 37.
- 54 Section 38 and cross-heading above section 38 repealed**
Repeal section 38 and the cross-heading above section 38.
- 55 Section 43 amended (New section 135FA inserted)** 5
In section 43, new section 135FA(3), replace “(2)(b)” with
“(2)(a) or (b)”.
- 56 Section 44 amended (Discretionary relief for residual
incremental penalty debt)** 10
In section 44(3), replace “135GA(2)(b)(i)” with “135GA”.
- 57 Section 45 amended (New section 135GA inserted)**
(1) In section 45, replace new section 135GA(1)(b) with:
“(b) the Commissioner is satisfied that recovery of those
penalties would do either or both of the following:
“(i) place the liable person in serious hardship (as
defined in section 135G(3)):
“(ii) involve an inefficient use of the Commissioner’s
resources.” 15
- (2) In section 45, new section 135GA(2)(a) and (b), before “all”,
insert “some or”. 20
- (3) In section 45, new section 135GA(2)(b)(i), replace “parent”
with “person”.
- 58 Section 57 repealed (New section 152B inserted)**
Repeal section 57.
- 59 Section 58 and cross-heading above section 58 repealed** 25
Repeal section 58 and the cross-heading above section 58.
- 60 Section 59 amended (Payee may uplift financial support
debt)**
In section 59, replace new section 180(2)(b) with:

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- “(b) under subsection (1)(b), if the payee is a social security beneficiary (as so defined) at the time of the making of the election; or
- “(c) under subsection (1)(b), if the payee is not a social security beneficiary (as so defined) at the time of the making of the election, unless, at that time,— 5
- “(i) the Commissioner has accepted an election under **section 27** that covers the liability of the liable parent to pay child support; or
- “(ii) the payee elects that the liability of the liable parent to pay child support is to end under section 64 or 70.” 10
- 61 Section 60 amended (New sections 180A to 180C inserted)**
In section 60, replace new section 180A(2) with:
- “(2) The **benefit component** of an amount of child support, in subsection (1), means the proportion of that amount that is deductible under section 142 or 143 in respect of social security benefit or unsupported child’s benefit (or any lesser amount that would be deductible in lieu of that proportion under those sections).” 15 20
- 62 Section 61 repealed (Direct payment to payee)**
Repeal section 61.
- 63 Section 62 replaced (New section 276 substituted)**
Replace section 62 with:
- “**62 Section 276 amended** 25
In section 276(2) (as inserted by **section 49(3)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**), after the item relating to Part 1A of Schedule 1, insert:
- Child Support Amendment Act 2013: 2
Provisions relating to amendments
effective on 1 April 2016
- 64 Section 63 amended (Schedule 1 amended)** 30
(1) Repeal section 63(1).

- (2) In section 63(2), after “this Act”, insert “and amended by **section 50** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**”.
- (3) In section 63(2), new Part 2 of Schedule 1, repeal clause 9.
- (4) In section 63(2), new Part 2 of Schedule 1, after clause 10, 5
insert:
- “11 Insertion of sections 180A and 180C (Writing off of child support debt)**
In relation to child support payable in respect of a child support year ending before 1 April 2015, sections 180A(1)(a) and 180C(a) apply as if references to the receiving carer were references to the qualifying custodian.” 10

Part 2

Annual rates of income tax

- 65 Annual rates of income tax for 2015–16 tax year** 15
Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2015–16 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 3

Amendments to Income Tax Act 2007 20

- 66 Income Tax Act 2007**
This Part amends the Income Tax Act 2007.
- 67 Section CD 18 amended (Dividend reduced if foreign tax paid on company’s income)**
In section CD 18(3), definition of **total tax paid**, replace “the 25
country” with “the country or territory”.
- 68 Section CD 39 amended (Calculation of amount of dividend when property made available)**
- (1) Repeal section CD 39(13).
- (2) Repeal section CD 39(14). 30
- (3) In section CD 39, list of defined terms, delete “attributed repatriation” and “New Zealand repatriation amount”.

- 69 Section CD 44 amended (Available capital distribution amount)**
- (1) After section CD 44(7)(d), insert:
- “(db) an amount is derived by the company that is attributable to the difference between the consideration for disposal or acquisition of livestock and the value of that livestock under section EC 4C (Value and timing of transfers); or”.
- (2) After section CD 44(9), insert:
- “Capital losses amount: herd scheme”*
- “(9B) For the purposes of this section, a company incurs a capital loss if it incurs a loss that is attributable to the difference between the consideration for disposal or acquisition of livestock and the value of that livestock under section EC 4C.”
- 70 Section CE 1E amended (Exception: accommodation provided to ministers of religion)**
- After section CE 1E(3), insert:
- “Calculation of remuneration for purposes of section”*
- “(3B) For the purposes of subsection (3)(a), the calculation of the amount of the item **remuneration** excludes the value of accommodation described in subsection (1) that is provided to the person.”
- 71 Section CF 3 amended (Withdrawals from foreign superannuation scheme)**
- (1) Replace section CF 3(1), other than the heading, with:
- “(1) This section applies when a New Zealand resident derives a benefit (a **foreign superannuation withdrawal**), other than a pension or annuity, that arises from an interest in a foreign superannuation scheme (the **scheme**) that—
- “(a) is not a FIF superannuation interest; and
- “(b) is acquired—
- “(i) when the person is a non-resident or is treated under a double tax agreement as not being resident in New Zealand;
- “(ii) in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in

the scheme when being a non-resident or when treated under a double tax agreement as not being resident in New Zealand.”

(2) Replace **section CF 3(1)**, other than the heading, with:

“(1) This section applies when a New Zealand resident derives a benefit (a **foreign superannuation withdrawal**) that is not a pension or annuity and arises from an interest in a foreign superannuation scheme (the **scheme**) that—

“(a) is not a FIF superannuation interest and is acquired—

“(i) when the person is a non-resident or is treated under a double tax agreement as not being resident in New Zealand:

“(ii) in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in the scheme when being a non-resident or when treated under a double tax agreement as not being resident in New Zealand:

“(b) is a FIF superannuation interest (a **low-value FIF superannuation interest**) from which the person does not have FIF income or loss because the person, although not acting as a trustee, does not meet the requirements of sections CQ 5(1)(d) and DN 6(1)(d) (which relate to when FIF income and FIF loss arise).”

(3) Replace section CF 3(3), other than the heading, with:

“(3) A foreign superannuation withdrawal is not income of the person under subsection (2)(d) if—

“(a) the benefit is an interest of the person in the scheme that is withdrawn on the death of the person or under a relationship agreement arising from an event (the **relationship cessation**) that occurs when,—

“(i) for a marriage or civil union of the person, the marriage or civil union is dissolved or the person and the person’s spouse or civil union partner separate or begin to live apart (whether or not they continue to live in the same residence):

“(ii) for a de facto relationship of the person, the de facto relationship ends; and

“(b) immediately before the death or the relationship cessation, the person is a New Zealand resident who is treated

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- under all double tax agreements as being resident in New Zealand; and
- “(c) the withdrawal of the interest in the scheme is for immediate reinvestment as an interest, in a foreign superannuation scheme outside Australia, of another person who is— 5
- “(i) a spouse, civil union partner, or de facto partner of the person immediately before the death or the relationship cessation; and
- “(ii) a New Zealand resident who is treated under all double tax agreements as being resident in New Zealand.” 10
- (4) In section CF 3(5), before paragraph (a), replace “interest in the scheme” with “interest in the scheme, other than a low-value FIF superannuation interest.” 15
- (5) In section CF 3(8)(a), before subparagraph (i), replace “begins” with “if the person is a non-resident when they acquire the interest, begins”.
- (6) After section CF 3(8)(a), insert: 20
- “(ab) if the person is a resident who is treated under a double tax agreement as being a non-resident when they acquire the interest in the scheme, begins on the date when the person becomes, for the first time after acquiring the interest, a New Zealand resident who is treated under all double tax agreements as resident in New Zealand and who owns the interest in the scheme:” 25
- (7) After **section CF 3(8)(ab)**, insert: 30
- “(ac) if the person is a resident when they acquire the interest and **paragraph (ab)** does not apply, begins when they acquire the interest:”.
- (8) Insert, after section CF 3(9)(b)(i):
- “(ib) the interest is not a low-value FIF superannuation interest; and”.
- (9) In section CF 3(21)(d), replace “a New Zealand resident” with “a New Zealand resident who is treated under all double tax agreements as being resident in New Zealand” 35

- 72 Section CG 7B amended (Disposals or applications after earlier deductions)**
- (1) In section CG 7B(1)(c), after “in the lodging of a patent application with a complete specification”, insert “or a design registration application,”. 5
- (2) In section CG 7B(2)(b), after “in the lodging of a patent application with a complete specification”, insert “or a design registration application,”.
- (3) In section CG 7B, list of defined terms, insert “design registration application”. 10
- (4) **Subsections (1) and (2)** apply for the 2015–16 and later income years.
- 73 New section CG 7C inserted**
- (1) After section CG 7B, insert:
- “CG 7C Clawback for derecognised non-depreciable assets 15**
- “When this section applies*
- “(1) This section applies when, for an intangible asset, a person has been allowed a deduction under **section DB 34** (Research or development) because **section DB 34(3)** applies and—
- “(a) the intangible asset is disposed of in an income year for consideration that is not income under another provision of this Act: 20
- “(b) the intangible asset is used or available for use in an income year.
- “Disposal for consideration 25*
- “(2) If **subsection (1)(a)** applies, an amount equal to the deduction described in **subsection (1)** is income of the person in the income year, unless **subsection (3)** applies.
- “Special case: disposal for consideration less than deduction*
- “(3) If **subsection (1)(a)** applies and the consideration is less than the deduction described in **subsection (1)**, then, despite **subsection (2)**, an amount equal to the consideration is income of the person in the income year. 30

“Used or available for use

- “(4) If **subsection (1)(b)** applies, an amount equal to the deduction described in **subsection (1)** is income of the person in the income year.

“Relationship with subpart EE

5

- “(5) For the purposes of subpart EE (Depreciation), the person is treated as never having the deduction described in **subsection (1)**.

“Defined in this Act: deduction, dispose, income, income year”.

- (2) **Subsection (1)** applies for the 2015–16 and later income years. 10

74 Section CQ 2 amended (When attributed CFC income arises)

- (1) In section CQ 2(2), replace the subsection heading with *“Special rule: taxable distributions under the attributable FIF income method”*. 15
- (2) In section CQ 2, list of defined terms, delete “attributed repatriation”.

75 Section CQ 5 amended (When FIF income arises)

- (1) After section CQ 5(1)(c)(ii), insert: 20
- “(iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings):”.*
- (2) In section CQ 5(1)(c)(xiv), replace “non-resident’s annuity” with “annuity”. 25
- (3) In section CQ 5(3), replace “whether or not the CFC is a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)” with “regardless of whether the CFC is a non-attributing active CFC under section EX 21B (Non-attributing active CFCs) or a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)”. 30

76 Section CW 55BA replaced (Tertiary education institutions)

(1) Replace section CW 55BA with:

“CW 55BA Tertiary education institutions and subsidiaries

“Exempt income” 5

“(1) An amount of income derived by a tertiary education institution or a tertiary education subsidiary is exempt income.

“Tertiary education subsidiary”

“(2) In this section, a **tertiary education subsidiary**, for a tertiary education institution, means a company— 10

“(a) in which the tertiary education institution holds—

“(i) voting interests in the company adding up to 100%; or

“(ii) market value interests in the company adding up to 100%, when a market value circumstance exists; and 15

“(b) where no person, other than the tertiary education institution, with some control over the company is able to direct or divert, to their own benefit or advantage, an amount derived from the company. 20

“Control over company”

“(3) For the purposes of **subsection (2)(b)**, for an income year, a person is treated as having some control over the company and as being able to direct or divert amounts from the company to their own benefit or advantage if, in the corresponding tax year, they are described in section CW 42(5)(a) and (b). 25

“No control over company”

“(4) For the purposes of **subsection (2)(b)**, a person described in section CW 42(7)(a) and (b) is not treated as having some control over the company merely because of the factors in section CW 42(7)(a) and (b). 30

“Benefit or advantage”

“(5) For the purposes of **subsection (2)(b)**, a benefit or advantage is one that would be a benefit or advantage under section CW 42(1)(c) and (8). 35

“Defined in this Act: amount, company, exempt income, income, market value circumstance, market value interest, tertiary education institution, tertiary education subsidiary, voting interest”.

- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 77 Section CX 48 repealed (Amounts remitted as condition of new start grant)** 5
Repeal section CX 48.
- 78 Section CX 56C amended (Distributions to investors by listed PIEs)**
- (1) In section CX 56C(1)(a), replace “resident” with “resident in New Zealand”.
- (2) In section CX 56C, list of defined terms, replace “resident” with “resident in New Zealand”. 10
- 79 Section CZ 10 repealed (Transitional relief for calculation of attributed repatriation dividends: 2 July 1992)**
Repeal section CZ 10.
- 80 Section CZ 29 amended (Accommodation expenditure: Canterbury earthquake relief)** 15
In section CZ 29(3), insert, as a subsection heading, “*Modified definition of project of limited duration*”.
- 81 New section CZ 33 inserted (Transitional exception for accommodation provided to ministers of religion)** 20
After section CZ 32, insert:
“CZ33 Transitional exception for accommodation provided to ministers of religion
“When this section applies
- “(1) This section applies for the period that starts on 1 July 2013 and ends on 31 March 2015 when accommodation is provided to a person who is a minister of religion and the property in which the accommodation is provided is supplied by the religious society or organisation of which they are a minister. 25
- “Income* 30
- “(2) Despite section CE 1 (Amounts derived in connection with employment), the value of the accommodation is income of

the person but is limited to the extent described in **subsection (3)**.

“Limited amount

“(3) The amount of income for an income year is calculated using the formula— 5

$$\text{remuneration} \times (1 - \text{adjustment}).$$

“Definition of items in formula

“(4) In the formula,—

“(a) **remuneration** is the amount that equals 10% of the remuneration that the person receives for the income year for the performance of their duties as a minister from the religious society or organisation of which they are a minister: 10

“(b) **adjustment** is the adjustment referred to in **subsection (6)**, and is the part of the amount that is the value of the accommodation for the income year apportioned to work-related use, expressed as a decimal fraction of the total value of the accommodation. 15

“Calculation of remuneration for purposes of section

“(5) For the purposes of **subsection (4)(a)**, the calculation of the amount of the item **remuneration** excludes the value of the accommodation described in **subsection (1)** that is provided to the person. 20

“Adjustments

“(6) An adjustment referred to in **subsection (4)(b)** is as follows:

“(a) if the person to whom the accommodation is provided uses part of the accommodation wholly or mainly for work purposes related to their duties as a minister, the amount is apportioned between that business use and private use: 25

“(b) if more than 1 person referred to in **subsection (1)** shares in the accommodation provided, the amount is apportioned equally between them. 30

“Part years

“(7) For the purposes of this section, if accommodation is provided for part of an income year, the references to income year are read as references to the relevant parts of the income year. 35

“Meaning of minister of religion

“(8) For the purposes of this section, **minister of religion**—

“(a) means a person—

“(i) who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a minister of a religious denomination or community that meets the charitable purpose of the advancement of religion; and 5

“(ii) whose duties are related mainly to the practice, study, teaching, or advancement of religious beliefs; and 10

“(iii) whose accommodation is used as an integral part of performing their duties; and

“(b) does not include a member of a religious society or order referred to in section CW 25 (Value of board for religious society members). 15

“Defined in this Act: accommodation, amount, business, income, income year, minister of religion”.

82 Section DA 5 repealed (Treatment of expenditure for commercial fit-out) 20

(1) Repeal section DA 5.

(2) **Subsection (1)** applies for the 2011–12 and later income years.

83 New section DB 22B inserted (Amounts paid for commercial fit-out for building) 25

(1) After section DB 22, insert:

“DB 22B Amounts paid for commercial fit-out for building

“When this section applies

“(1) This section applies when a person incurs expenditure relating to a building. 30

“Determining whether expenditure of capital nature

“(2) For the purpose of determining whether the expenditure is capital in nature, expenditure relating to an item of commercial fit-out for the building is treated as not relating to the building. 35

“Defined in this Act: commercial fit-out”.

- (2) **Subsection (1)** applies for the 2011–12 and later income years.

84 Section DB 31 amended (Bad debts)

- (1) Replace section DB 31(3) with:

“Deduction: financial arrangement debt: dealers and holders 5

- “(3) For a financial arrangement to which the financial arrangement rules apply, a person who carries on a business for the purpose of deriving assessable income that includes dealing in or holding financial arrangements that are the same as, or similar to, the financial arrangement is allowed a deduction, quantified in **subsection (3B)**, for an amount owing under the financial arrangement if— 10

“(a) the amount is a bad debt and a requirement of subsection (1)(a) is met; and

“(b) the person is not associated with the person owing the amount written off. 15

“Amount of deduction under subsection (3)

- “(3B) For the purposes of **subsection (3)**, the amount of the deduction for the amount owing under the financial arrangement is the lesser of— 20

“(a) the amount provided by **subsection (4B)**; and

“(b) the amount provided by subsection (5).”

- (2) Replace section DB 31(4B), (4C), (4D), and (4E) with:

“Amount for purposes of subsections (3) and (3B)

- “(4B) For the purposes of **subsections (3) and (3B)**, the amount is the least of— 25

“(a) the amount of consideration that the person pays for acquiring the financial arrangement:

“(b) the amount owing under the financial arrangement:

“(c) the amount calculated using the following formula, 30
treating the calculation of a negative amount as zero:

amount owing – limited recourse consideration.

“Definition of items in formula

- “(4C) In the formula in **subsection (4B)(c)**,—

“(a) **amount owing** is the lesser of—

- “(i) the amount of consideration that the person pays for acquiring the financial arrangement:
- “(ii) the amount owing under the financial arrangement:
- “(b) **limited recourse consideration** is the amount of consideration paid to the person under a limited-recourse arrangement that relates to the financial arrangement. 5
- “Limited recourse: base price adjustment*
- “(4D) If **subsection (4B)(c)** applies for an amount owing under a financial arrangement, then the person is allowed a deduction, at the time the person performs a base price adjustment for the related limited-recourse arrangement, of an amount equal to the amount owing under the financial arrangement minus the total amount of deductions for the financial arrangement under subsections (2) and (3) that have arisen before the base price adjustment.” 10 15
- (3) In section DB 31(5B), replace “a debt (the **debt**)” with “an amount owing under a financial arrangement (the **debt**)”.
- (4) Replace section DB 31(6)(b)(iii) with:
- “(iii) the general limitations still apply, except that **subsection (3)** overrides the capital limitation for a financial arrangement entered into in the ordinary course of business.” 20
- (5) In section DB 31(6)(b)(iii), replace “subsection (3) overrides” with “**subsections (3) and (4D)** override”. 25
- (6) **Subsections (1), (2), (3), and (5)** apply for a debt that goes bad in the 2008–09 or later income year.
- (7) **Subsection (4)** applies for the 2008–09 and later income years.
- 85 Section DB 34 amended (Research or development)** 30
- (1) After section DB 34(2), insert:
- “Expenditure on derecognised non-depreciable assets*
- “(3) Subsection (1) applies to a person who—
- “(a) incurs expenditure, on an intangible asset that is not depreciable intangible property,— 35
- “(i) on or after 7 November 2013; and

- “(ii) before the intangible asset is derecognised or written off by the person as described in **paragraph (b)**; and
- “(b) derecognises or writes off the intangible asset for financial reporting purposes under— 5
- “(i) paragraph 112(b) of the new reporting standard; or
- “(ii) paragraph 5.14 of the old reporting standard.”
- (2) In section DB 34(7), replace “that is not interest” with “that is not interest and is described in subsection (2), (4), or (5)”. 10
- (3) After section DB 34(7), insert:
“Allocation of deduction for derecognised non-depreciable assets
- “(7B) A person who is allowed a deduction as provided by **subsection (3)** must allocate the deduction to the income year in 15
 which the relevant intangible asset is derecognised or written off by the person for financial reporting purposes under—
 “(a) paragraph 112(b) of the new reporting standard; or
 “(b) paragraph 5.14 of the old reporting standard.”
- (4) **Subsections (1), (2), and (3)** apply for the 2015–16 and later 20
 income years.
- 86 Section DB 35 amended (Some definitions)**
- (1) In section DB 35(1), definition of **development**, replace “reporting standard” with “new reporting standard”.
- (2) In section DB 35(1), definition of **research**, replace “reporting 25
 standard” with “new reporting standard”.
- 87 Section DB 37 amended (Expenses in application for patent)**
- (1) Replace the heading to section DB 37 with “**Expenses in application for patent or design registration**”. 30
- (2) In section DB 37(1), replace “the grant of a patent” with “the grant of a patent or of a design registration”.
- (3) In section DB 37, list of defined terms, insert “design registration”.
- (4) **Subsection (2)** applies for the 2015–16 and later income 35
 years.

88 Section DF 1 amended (Government grants to businesses)

- (1) After section DF 1(1), insert:
 “When this section does not apply
“(1BA) This section does not apply to the extent to which a payment
described in subsection (1) is the payment of a tax credit for
R&D tax losses and the person’s expenditure is attributable to
that payment.” 5
(2) In section DF 1, list of defined terms, insert “tax credit for
R&D tax losses”.
(3) **Subsections (1) and (2)** apply for income years beginning 10
on or after 1 April 2015.

**89 Section DG 4 amended (Meaning of private use for this
subpart)**

- (1) Replace section DG 4(2), other than the heading, with:
“(2) The person referred to in subsection (1)(a) is a natural person 15
who—
 “(a) owns, leases, licenses, or otherwise has the asset:
 “(b) is associated with a person who owns, leases, licenses,
 or otherwise has the asset.”
(2) Replace section DG 4(3), other than the heading, with: 20
“(3) The use of an asset is not private use if—
 “(a) the asset is used to derive income for a particular period;
 and
 “(b) during the period, use of the asset by the person is
 limited to: 25
 “(i) use in the ordinary course of business:
 “(ii) deriving the person’s employment income.”
(3) **Subsections (1) and (2)** apply,—
(a) for the 2013–14 and later income years, for an item
of property referred to in section DG 3(2)(a)(i) of the 30
Income Tax Act 2007:
(b) for the 2014–15 and later income years, for an item of
property referred to in section DG 3(2)(a)(ii) and (iii) of
the Income Tax Act 2007.

90 Section DG 9 amended (Apportionment formula)

- (1) In section DG 9(3)(a)(iii), replace “capital use” with “capital purpose”.
- (2) **Subsection (1)** applies—
 - (a) for the 2013–14 and later income years, for an item 5
of property referred to in section DG 3(2)(a)(i) of the
Income Tax Act 2007:
 - (b) for the 2014–15 and later income years, for an item of
property referred to in section DG 3(2)(a)(ii) and (iii) of
the Income Tax Act 2007. 10

91 Section DG 11 amended (Interest expenditure: close companies)

- (1) Replace section DG 11(3), other than the heading, with:
 - “(3) If the debt value for the income year is equal to or less than 15
the asset value for the income year, the company is allowed
a deduction for interest expenditure incurred for the income
year of an amount calculated using the formula in **subsection
(3B)**.”
- (2) After **section DG 11(3)** insert: 20
“*Formula*

“(3B) The formula is—

$$\text{interest expenditure} \times \frac{\text{(income-earning days + capital-use days)}}{\text{(income-earning days + counted days)}}$$

“*Definition of items in formula*

- “(3C) In the formula in **subsection (3B)**,—
 - “(a) **interest expenditure** is the amount of interest expend- 25
iture incurred by the company for the income year:
 - “(b) **income-earning days** is the number of days in the in-
come year for which the company derives income from
the use of the asset, other than exempt income, includ-
ing days on which—
 - “(i) the use of the asset is described in section 30
DG 4(3) to (5):
 - “(ii) the asset has become unavailable for use because
another person who had earlier reserved the asset

- for their own use, subsequently did not take advantage of that reservation:
- “(iii) a fringe benefit tax liability arises:
- “(c) **capital-use days** is the number of days in the income year on which the asset is used for a capital purpose: 5
- “(d) **counted days** is the number of days in the income year on which the asset is in use, each of which is not an income-earning day as described in **paragraph (b)**.”
- (3) In section DG 11(5), replace “the formula” with “the formula in subsection (4)”. 10
- (4) In section DG 11(6)(a) replace “section DG 9(2)” with “**subsection (3B)**”.
- (5) In section DG 11(6)(b) replace “item **expenditure**” with “item **interest expenditure**”.
- (6) After section DG 11(6) insert: 15
- “Deductions for interest expenditure in excess of reduced amounts*
- “(6B) The company is allowed a deduction for the amount of interest expenditure calculated under **subsection (6C)** to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart. 20
- “Formula*
- “(6C) The formula is—
- interest expenditure – reduced amount.
- “Definition of items in formula*
- “(6D) In the formula in **subsection (6C)**,— 25
- “(a) **interest expenditure** is the amount of interest expenditure incurred by the company for the income year:
- “(b) **reduced amount** is the reduced amount of interest expenditure calculated using the formula in subsection (4).” 30
- (7) In section DG 11, replace the example with:

Example

Holiday Home Ltd holds a holiday home with a rateable value of \$200,000. The company has debt of \$40,000, with associated interest expenditure of \$4,000. Since the debt value is less than the 35

Example—*continued*

asset value, all the interest expenditure must be apportioned (section DG 11(3)-(3C)).

Boat Ltd has a charter boat whose adjusted tax value is \$60,000. The company has debt of \$100,000, with associated interest expenditure of \$10,000. Since the debt value is more than the asset value, the company must apportion the interest expenditure of \$6,000 (section DG 11(4)—(6)). The formula is $\$10,000 \times (\$60,000/\$100,000) = \$6,000$. The remaining interest expenditure of \$4,000 is not subject to apportionment under subpart DG and is allowed as a deduction under section DB 7 (section DG 11(6B)–(6D)). The formula is $\$10,000 - \$6,000 = \$4,000$.

- (8) **Subsections (1), (2), (3), (4), (5), (6), and (7)** apply,—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:
 - (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007.

92 Section DG 12 amended (Interest expenditure: group companies)

- (1) In section DG 12(3)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”.
- (2) In section DG 12(3)(b), replace “item **expenditure**” with “item **interest expenditure**”.
- (3) In section DG 12(7)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”.
- (4) In section DG 12(7)(b), replace “item **expenditure**” with “item **interest expenditure**”.
- (5) After section DG 12(7) insert:
“Deductions for interest expenditure in excess of reduced amounts
- “(7B) Company B is allowed a deduction for the amount of interest expenditure calculated under **subsection (7C)** to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart.

“Formula

“(7C) The amount of interest expenditure is calculated using the formula—

interest expenditure – reduced amount.

“Definition of items in formula

“(7D) In the formula in **subsection (7C)**,— 5

“(a) **interest expenditure** is the amount of interest expenditure described in subsection (6)(a):

“(b) **reduced amount** is the reduced amount of interest expenditure calculated using the formula in subsection (5).” 10

(6) **Subsections (1), (2), (3), (4), and (5)** apply,—

(a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:

(b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007. 15

93 Section DG 13 amended (Interest expenditure: corporate shareholders)

(1) In section DG 13(1), replace the words before paragraph (a) with “This section applies to a company that is not in the same group of companies as another company (**company A**), that is a close company or qualifying company, when—”. 20

(2) In section DG 13(1)(b), replace the words before subparagraph (i) with “the company is 1 or more of—”. 25

(3) In section DG 13(5)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”.

(4) In section DG 13(5)(b), replace “item **expenditure**” with “item **interest expenditure**”.

(5) In section DG 13(9)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”. 30

(6) In section DG 13(9)(b), replace “item **expenditure**” with “item **interest expenditure**”.

(7) After section DG 13(9) insert:

“Deductions for interest expenditure in excess of reduced amounts

“(9B) The company is allowed a deduction for the amount of interest expenditure calculated under **subsection (9C)** to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart. 5

“Formula

“(9C) The formula is—

interest expenditure – reduced amount.

“Definition of items in formula

“(9D) In the formula in **subsection (9C)**,— 10

“(a) **interest expenditure** is the amount of interest expenditure incurred by the company for the income year:

“(b) **reduced amount** is the reduced amount of interest calculated using the formula in subsection (7).”

(8) **Subsections (1), (2), (3), (4), (5), (6), and (7)** apply,— 15

(a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:

(b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007. 20

94 Section DG 14 amended (Interest expenditure: non-corporate shareholders)

(1) In section DG 14(1), replace the words before paragraph (a) with “This section applies for a person, for an income year and a company (**company A**) that is a close company or qualifying company, when—”. 25

(2) In section DG 14(1)(b), replace the words before subparagraph (i) with “the person—”.

(3) **Subsections (1) and (2)** apply,— 30

(a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:

- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007.

95 Section DG 16 amended (Quarantined expenditure when asset activity negative) 5

- (1) In section DG 16(1)(a), replace “expenditure” with “expenditure or loss”.
- (2) **Subsection (1)** applies—
 - (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007: 10
 - (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007.

96 Section DN 6 amended (When FIF loss arises) 15

- (1) After section DN 6(1)(c)(ii), insert:
 - “(iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings):”. 20
- (2) In section DN 6(1)(c)(iv), replace “regime” with “rules”.
- (3) In section DN 6(3), replace “whether or not the CFC is a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)” with “regardless of whether the CFC is a non-attributing active CFC under section EX 21B (Non-attributing active CFCs) or a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)”. 25

97 Section DT 3 replaced (Acquisition of privileges and permits)

- (1) Replace section DT 3 with: 30
 - “**DT 3 Acquisition of privileges and permits**
 - “When expenditure for privileges or permits incurred*
 - “(1) The consideration that a person pays to acquire a privilege or permit referred to in **subsection (2)** from a petroleum miner

is incurred in the income year in which the petroleum miner disposes of the privilege or permit to the person.

“Privileges and permits

- “(2) **Subsection (1)** applies to the person and a privilege or permit if— 5
- “(a) the consideration that the person pays to acquire the privilege or permit is petroleum exploration expenditure; and
- “(b) the privilege or permit is— 10
- “(i) an existing privilege that is a prospecting licence granted under Part 1 of the Petroleum Act 1937: 10
- “(ii) a prospecting permit for petroleum:
- “(iii) an exploration permit for petroleum.
- “Defined in this Act: dispose, existing privilege, exploration permit, income year, pay, petroleum, petroleum miner, prospecting permit” 15
- (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) for an arrangement entered into before the date of introduction of the Taxation (Annual Rates 2015-16, Research and Development, and Remedial Matters) Bill; 20
- and
- (b) relying upon the definition of petroleum exploration expenditure as it was before the amendment made by **section 213(49)**. 25

98 Section DT 8 replaced (Acquisition of certain petroleum mining assets)

- (1) Replace section DT 8 with:
- “DT 8 Acquisition of certain petroleum mining assets**
- “When expenditure for petroleum mining assets incurred* 30
- “(1) The consideration that a person pays to acquire a petroleum mining asset, excluding a privilege or permit referred to in **subsection (2)**, from a petroleum miner is incurred in the income year in which the petroleum miner disposes of the petroleum mining asset to the person. 35

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“Privileges and permits

“(2) For the purposes of **subsection (1)** for a person, a privilege or permit is excluded if—

“(a) the consideration that the person pays to acquire the privilege or permit is petroleum exploration expenditure; and 5

“(b) the privilege or permit is—

“(i) an existing privilege that is a prospecting licence granted under Part 1 of the Petroleum Act 1937:

“(ii) a prospecting permit for petroleum: 10

“(iii) an exploration permit for petroleum.

“Defined in this Act: dispose, existing privilege, exploration permit, income year, pay, petroleum, petroleum development expenditure, petroleum miner, petroleum mining asset, prospecting permit”.

(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— 15

(a) for an arrangement entered into before the date of introduction of the Taxation (Annual Rates 2015-16, Research and Development, and Remedial Matters) Bill; and 20

(b) relying upon the definition of petroleum exploration expenditure as it was before the amendment made by **section 213(49)**.

99 New heading and section DV 26 inserted (Deduction for reinstatement of R&D tax losses) 25

(1) After section DV 25, insert:

“Reinstatement of R&D tax losses

“DV 26 Deduction for reinstatement of R&D tax losses

“Deduction 30

“(1) A person is allowed a deduction for the amount given by **section MX 6(5)** (Reinstatement of R&D tax losses and R&D repayment tax).

“Choice for allocation of deduction

“(2) The person may choose to allocate all or part of the deduction— 35

- “(a) to an income year after the income year in which the person incurs the expenditure; and
“(b) in the way required by section EJ 23 (Allocation of deductions for research, development, and resulting market development). 5
- “*Section need not be applied*
- “(3) The person may return income and expenditure in their return of income for an income year on the basis that this section does not apply to the deduction in the income year.
“*Link with subpart DA* 10
- “(4) This section overrides the general permission and the general limitations.
“Defined in this Act: deduction, general limitation, general permission, income, income year, return of income”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 15
- 100 Section DZ 4 amended (Expenditure on abandoned exploratory well before 16 December 1991)**
- (1) In section DZ 4(2)(b), after “existing privilege”, insert “that is a mining licence under Part 1 of the Petroleum Act 1937”. 20
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 101 Section DZ 5 amended (Farm-out arrangements for petroleum mining before 16 December 1991)**
- (1) In section DZ 5(5), replace “subsection (4)” with “subsection (3)”. 25
- (2) In section DZ 5(5)(b), replace “existing privilege or” with “existing privilege that is a prospecting licence under Part 1 of the Petroleum Act 1937 or a”.
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 30
- 102 Section EC 31 amended (Enhanced production)**
- (1) Replace section EC 31(1)(b) with:

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- “(b) as a result, in an income year or over the following 3 income years, acquires more non-specified livestock that—
- “(i) is not replacement livestock; and
 - “(ii) is not homebred livestock; and 5
 - “(iii) is valued at its standard value.”
- (2) In section EC 31(2), before paragraph (a), replace “bought” with “acquired”.
- (3) In section EC 31(2)(a), replace “bought” with “acquired”.
- (4) **Subsections (1), (2), and (3)** apply for the 2015–16 and later 10 income years.
- 103 Section EC 41 amended (Reduction: bloodstock not previously used for breeding in New Zealand other than as shuttle stallions)**
- (1) In section EC 41(1B)(a), replace “matrimonial agreement” 15 with “relationship agreement”.
- (2) In section EC 41, list of defined terms,—
- (a) delete “matrimonial agreement”;
 - (b) insert “relationship agreement”.
- (3) **Subsection (1)** applies for the 2008–09 and later income 20 years.
- 104 Section EE 16 amended (Amount resulting from standard calculation)**
- (1) In section EE 16(4)(b)(i), replace “patent or” with “patent, design registration, or” 25
- (2) After section EE 16(4)(b)(i), insert:
- “(ib) for a design registration to which subparagraph (i) does not apply, for a design registration application, or for the copyright in an artistic work to which section 75 of the Copyright Act 30 1994 applies, its cost to the person, but excluding expenditure that the person incurred before 7 November 2013 or for which they are allowed a deduction under a provision of this Act outside this subpart:” 35
- (3) In section EE 16(4)(c), replace “and EE 19” with “to EE 19”.

- (4) In section EE 16(7), heading, delete “*patent*”.
- (5) In section EE 16(7), replace “patent application” with “patent application and a design registration application”.
- (6) In section EE 16, list of defined terms, insert “design registration” and “design registration application”. 5
- (7) **Subsections (1), (2), (3), and (5)** apply for the 2015–16 and later income years.
- 105 New section EE 18B inserted (Cost: some depreciable intangible property)**
- (1) After section EE 18, insert: 10
- “**EE 18B Cost: some depreciable intangible property**
For the purposes of **section EE 16** and this subpart, the cost to a person for an item of depreciable intangible property (the **amortising item**) includes an amount of expenditure incurred by the person for an item of intangible property (the **under-** 15
lying item) if—
- “(a) the underlying item gives rise to, supports, or is an item in which the person holds, the amortising item; and
- “(b) the amortising item is none of— 20
- “(i) a patent:
- “(ii) a patent application with a complete specification lodged on or after 1 April 2005:
- “(iii) plant variety rights; and
- “(c) the person is not allowed a deduction for the expenditure under a provision outside this subpart. 25
- “Defined in this Act: deduction, depreciable intangible property, plant variety rights”.
- (2) **Subsection (1)** applies for the 2011–12 and later income years.
- 106 Section EE 18B amended (Cost: some depreciable intangible property)** 30
- (1) In **section EE 18B**, before paragraph (a), replace “item of depreciable intangible property” with “item of depreciable intangible property or a plant variety rights application”.
- (2) Replace **section EE 18B(b)** with: 35

- “(b) the amount of expenditure is incurred by the person on or after 7 November 2013, if the amortising item is 1 of—
- “(i) a patent or a patent application with a complete specification lodged on or after 1 April 2005: 5
 - “(ii) plant variety rights:
 - “(iii) a plant variety rights application:
 - “(iv) a design registration:
 - “(v) a design registration application:
 - “(vi) the copyright in an artistic work to which section 10 75 of the Copyright Act 1994 applies; and”.
- (3) In **section EE 18B**, list of defined terms, insert “design registration” and “design registration application”.
- (4) **Subsections (1) and (2)** apply for the 2015–16 and later income years. 15
- 107 Section EE 19 amended (Cost: fixed life intangible property)**
- (1) After section EE 19(1), insert:
“When this section does not apply
- “(1B) This section does not apply for additional costs incurred before 7 November 2013 for— 20
- “(a) a design registration:
 - “(b) a design registration application:
 - “(c) the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies.” 25
- (2) In section EE 19, list of defined terms, insert “design registration” and “design registration application”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years.
- 108 Section EE 32 amended (Election in relation to certain depreciable property acquired on or after 1 April 2005) 30**
- (1) In section EE 32(2), replace “economic depreciation rate” with “economic rate”.
- (2) In section EE 32, list of defined terms, replace “economic depreciation rate” with “economic rate”. 35

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

109 Section EE 33 amended (Annual rate for fixed life intangible property)

- (1) After section EE 33(1)(a), insert: 5
 “(ab) a design registration for which a rate is set in **section EE 34B**.”
- (2) Replace section EE 33(3)(a) with:
 “(a) if section **EE 18B** or EE 19 apply, the item’s remaining legal life from the start of the income year in which the relevant costs are recognised under the section.” 10
- (3) In section EE 33(3)(b), replace “section EE 19 does not apply” with “sections **EE 18B** and EE 19 do not apply”.
- (4) In section EE 33, list of defined terms, insert “design registration”. 15
- (5) **Subsections (2) and (3)** apply for the 2011–12 and later income years.
- (6) **Subsection (1)** applies for the 2015–16 and later income years.

110 Section EE 34 amended (Annual rate for patent granted in 2005–06 or later income year) 20

- (1) Replace section EE 34(4), other than the heading, with:
 “(4) If the patent is an item of fixed life intangible property to which section **EE 18B** or EE 19 applies, **legal life** is the patent’s remaining legal life from the start of the income year in which the relevant costs are recognised under the section.” 25
- (2) In section EE 34(5), replace “section EE 19 does not” with “sections **EE 18B** and EE 19 do not”.
- (3) In section EE 34(6), replace “section EE 19 does not apply to the patent, and has not” with “sections **EE 18B** and EE 19 do not apply to the patent, and have not”. 30
- (4) In the heading to section EE 34(7), replace “*section EE 19*” with “*section **EE 18B** or EE 19*”.

- (5) In section EE 34(7), replace “section EE 19 does not apply to the patent, but has” with “sections **EE 18B** and EE 19 do not to the patent, but have”.
- (6) **Subsections (1), (2), (3), and (5)** apply for the 2015–16 and later income years. 5
- 111 New section EE 34B inserted (Annual rate for design registrations)**
- (1) After section EE 34, insert:
“EE 34B Annual rate for design registrations
“When this section applies 10
 “(1) This section applies to an item that is a design registration (the **design**).
“Rate
 “(2) The rate is the rate calculated using the formula—

$$\frac{1}{\text{legal life.}}$$

“Definition of item in formula 15
 “(3) In the formula, **legal life** is set out in whichever of **subsections (4) to (7)** applies to the design.
“When section EE 18B or EE 19 applies to design
 “(4) If the design is an item to which section **EE 18B** or EE 19 applies, **legal life** is the design’s remaining legal life from the start of the income year in which the relevant costs are recognised under the section. 20
“When no depreciation loss for design application
 “(5) If sections **EE 18B** and EE 19 do not apply to the design and the person has been denied a deduction for an amount of depreciation loss for the design’s design registration application (the **design application**), **legal life** is the design’s remaining legal life from the first time a cost is recognised for the design under this subpart. 25
“When depreciation loss for design application 30
 “(6) If sections **EE 18B** and EE 19 do not apply to the design, and have not applied to the design application while the person has owned it, and the person has been allowed a deduction for an

amount of depreciation loss for the design application, **legal life** is the remaining legal life of the design application from the first time a cost is recognised for the application under this subpart.

“When section EE 18B or EE 19 applied to design application 5

- “(7) If sections **EE 18B** and EE 19 do not apply to the design, but have applied to the design application while the person has owned it, and the person has been allowed a deduction for an amount of depreciation loss for the design application, **legal life** is the remaining legal life of the design application from the first time a cost is recognised for the design under this subpart. 10

“How rate expressed

- “(8) The rate calculated using the formula is expressed as a decimal and rounded to 2 decimal places, with numbers at the midpoint or greater being rounded up and other numbers being rounded down. 15

“Defined in this Act: deduction, depreciation loss, design registration, design registration application, income, legal life, own”.

- (2) **Subsection (1)** applies for the 2015–16 and later income years. 20

112 Section EE 44 amended (Application of sections EE 48 to EE 52)

- (1) After section EE 44(2)(b), insert:
 “(bb) a person’s design registration application has concluded because a design registration is granted to the person in relation to the application.”. 25
- (2) In section EE 44, list of defined terms, insert “design registration” and “design registration application”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years. 30

113 Section EE 57 amended (Base value in section EE 56 when none of sections EE 58, EE 59, and EZ 22(1) applies)

- (1) In section EE 57(3)(cb), replace “a patent application, a patent” with “a patent application, a patent, a design registration, a design registration application”. 35

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- (2) In section EE 57, list of defined terms, insert “design registration” and “design registration application”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years.
- 114 Section EE 60 amended (Total deductions in section EE 56) 5**
- (1) After section EE 60(3)(a)(i), insert:
 “(ib) if the item is a design registration, for the design registration application in relation to which the item was granted.”
- (2) In section EE 60(5)(a)(i), replace “subparagraph (ii) or (iii)” with “subparagraph (ii), (iii), or **(iv)**” 10
- (3) After section EE 60(5)(a)(iii), insert:
 “(iv) if the item is a design registration and the person acquired the design registration application in relation to which the design registration was granted, the date on which the person acquired the design registration application; or” 15
- (4) In section EE 60(5)(b)(i), replace “subparagraph (ii)” with “subparagraph (ii) or **(iii)**”.
- (5) After section EE 60(5)(b)(ii), insert: 20
 “(iii) if the item is a design registration and the person acquired the design registration application in relation to which the design registration was granted, the beginning of the month in which the person acquired the design registration application; or” 25
- (6) In section EE 60, list of defined terms, insert “design registration” and “design registration application”.
- (7) **Subsections (1), (2), (3), (4), and (5)** apply for the 2015–16 and later income years. 30
- 115 Section EE 61 amended (Meaning of annual rate)**
- (1) In section EE 61(1), replace “subsections (2) to (5)” with “subsections (2) to **(5B)**”.
- (2) After section EE 61(5), insert:

“Design registrations, applications

“(5B) The rate is the rate set by **section EE 34B** if the item is a design registration and **section EE 34B** applies to the item and the person.”

(3) In section EE 61, list of defined terms, insert “design registration”.

(4) **Subsections (1) and (2)** apply for the 2015–16 and later income years.

116 Section EE 67 amended (Other definitions)

(1) In section EE 67, definition of **legal life**, replace paragraph (b) with:

“(b) for an item that is a patent application, a design registration application, a patent, or a design registration, means the legal life under paragraph (a) that a patent or design registration would have if granted when the relevant application is first lodged:

“(bb) for an item that is the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies, means the number of years, months, and days for which protection against infringement of that copyright is available under section 75(1)(c) to (e) of that Act.”

(2) In section EE 67, list of defined terms, insert “design registration” and “design registration application”.

(3) **Subsection (1)** applies for the 2015–16 and later income years.

117 Section EJ 23 amended (Allocation of deductions for research, development, and resulting market development)

(1) After section EJ 23(1)(a), insert:

“(ab) a deduction for reinstatement of R&D tax losses that the person chooses to allocate under **section DV 26** (Deduction for reinstatement of R&D tax losses):”

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.

118 Section EM 1 amended (Australian non-attributing shares and attributing FDR method interests)

Replace section EM 1(1)(b)(ii) with:

“(ii) uses section EX 53 (Fair dividend rate periodic method).”

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119 Section EM 6 amended (Income and expenditure for fair dividend rate hedge portions)

Replace section EM 6(3)(b)(ii) with:

“(ii) the unit valuation period described in section EX 53 (Fair dividend rate periodic method):”.

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120 Section EW 9 amended (Persons to whom financial arrangements rules apply)

(1) Replace section EW 9(2), other than the heading, with:

“(2) Subsection (1) does not apply to a person who is not resident in New Zealand unless the person is described in subsection (3) or **(4)**.”

15

(2) Replace section EW 9(4)(b) with:

“(b) the person as trustee, together with the trust,—

“(i) do not meet the requirements of section HC 25(3)(a) and (b) (Foreign-sourced amounts: non-resident trustees); and

20

“(ii) do not meet the requirements of section HC 25(4)(a) and (b).”

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

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121 Section EW 15D amended (IFRS financial reporting method)

(1) In section EW 15D(2)(ac), replace “to equity” with “to equity, to other comprehensive income,”.

(2) In section EW 15D(2)(ad), replace “to equity” with “to equity, to other comprehensive income,”.

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(3) In section EW 15D(2)(b), replace “arising from the use of the fair value method may be allocated to equity reserves” with “may be allocated to equity or other comprehensive income”.

- 122 Section EW 33C amended (Consideration in foreign currency: some agreements for sale and purchase)**
In section EW 33C(3), insert as a subsection heading, “*Spot rates unavailable*”.
- 123 Section EW 46 repealed (Consideration when debtor released as condition of new start grant)** 5
Repeal section EW 46.
- 124 Section EX 16 amended (Income interests for certain purposes)**
- (1) Repeal section EX 16(3)(a). 10
- (2) In section EX 16, list of defined terms, delete “attributed repatriation”.
- 125 Section EX 20B amended (Attributable CFC amount)**
- (1) In section EX 20B(9)(e), replace “performed in the accounting period.” with “performed in the accounting period; and”. 15
- (2) In section EX 20B(9), after paragraph (e), insert:
“(f) a person who holds an attributing interest in the CFC files, after the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent, a return of income in which the amount attributed to the working person is determined under this section.” 20
- 126 Section EX 20C amended (Net attributable CFC income or loss)**
- (1) Replace section EX 20C(13)(a)(iii) with: 25
“(iii) correspond to amounts that would be deductions of the CFC after the adjustments that would be made under sections CH 2 and DB 50 (which relate to adjustments for prepayments) if the CFC were a resident:” 30
- (2) **Subsection (1)** applies for the 2016–17 and later income years.

127 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)

- (1) Replace section EX 21(13)(c) with:
- “(c) subpart CQ (Attributed income from foreign equity) or DN (Attributed losses from foreign equity) or this subpart to the extent to which any of the subparts would result in attributed CFC income or attributed CFC loss for the CFC:”.
- (2) In section EX 21, list of defined terms, delete “attributed repatriation”.

128 Section EX 21D amended (Non-attributing active CFC: default test)

- (1) After section EX 21D(1), insert:
- “CFC as part of test group for part of accounting period*
- “(1B) An interest holder who acquires or disposes of an interest in a CFC (the **first CFC**) after the beginning of an accounting period may choose to apply this section to group the first CFC, together with other CFCs that the interest holder acquires or disposes of at the same time, as a test group for the accounting period if, for the period in the accounting period in which the interest holder holds the interest in the first CFC:
- “(a) the first CFC has an ownership interest in each of the other CFCs; and
- “(b) the income interest under section EX 17 for the period, of the interest holder in the first CFC and of the first CFC in each other CFC, is more than 50%; and
- “(c) the requirements of subsection (1)(a), (c), and (d) are met.”
- (2) **Subsection (1)** applies for income years beginning on or after 1 July 2009.

129 Section EX 21E amended (Non-attributing active CFC: test based on accounting standard)

- (1) After section EX 21E(2), insert:
- “CFC as part of test group for part of accounting period*
- “(2B) An interest holder who acquires or disposes of an interest in a CFC (the **first CFC**) after the beginning of an accounting

- period may choose to apply this section to group the first CFC, together with other CFCs that they acquire or dispose of at the same time, as a test group for the accounting period if, for the period in the accounting period in which the interest holder holds the interest in the first CFC: 5
- “(a) the first CFC has an ownership interest in each of the other CFCs; and
- “(b) the income interest under section EX 17 for the period, of the interest holder in the first CFC and of the first CFC in each other CFC, is more than 50%; and 10
- “(c) the requirements of subsection (2)(a), (b), (d), and (e) are met.”
- (2) **Subsection (1)** applies for income years beginning on or after 1 July 2009.
- 130 Section EX 24 amended (Companies moving to or from New Zealand)** 15
- (1) In section EX 24(3), replace “branch equivalent income or loss” with “CFC attributable income or loss”.
- (2) In section EX 24(4), before the formula, replace “branch equivalent income or loss” with “CFC attributable income or loss”. 20
- (3) In section EX 24(4), formula, replace “branch equivalent income or loss” with “CFC attributable income or loss”.
- (4) In section EX 24, list of defined terms, delete “branch equivalent income”. 25
- 131 Section EX 25 amended (Change of CFC’s balance date)**
- (1) In section EX 25(1)(b), replace “attributed CFC income or loss or attributed repatriation” with “attributed CFC income or loss”.
- (2) In section EX 25(3)(d), replace “attributed CFC income or on attributed repatriation” with “attributed CFC income”. 30
- (3) In section EX 25(4), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.
- (4) In section EX 25, list of defined terms, delete “attributed repatriation”. 35

132 Section EX 31 amended (Exemption for ASX-listed Australian companies)

Replace section EX 31(2)(c)(ii) with:

- “(ii) at the earliest date in the income year on which the person owns shares in the company, if the person does not own shares in the company at the beginning of the income year; or”.

133 New section EX 33 inserted (Exemption for Australian regulated superannuation savings)

After section EX 32, insert:

“EX 33 Exemption for Australian regulated superannuation savings

A person’s rights in a FIF are not an attributing interest if—

- “(a) the person is a natural person; and
- “(b) the FIF is a foreign superannuation scheme that is—
 - “(i) an Australian approved deposit fund;
 - “(ii) an Australian exempt public sector superannuation scheme;
 - “(iii) an Australian regulated superannuation fund;
 - “(iv) an Australian retirement savings account.

“Defined in this Act: attributing interest, Australian approved deposit fund, Australian exempt public sector superannuation scheme, Australian regulated superannuation fund, Australian retirement savings account, FIF, foreign superannuation scheme”.

134 Section EX 35 amended (Exemption for interest in FIF resident in Australia)

(1) Replace section EX 35(a) with:

- “(a) for the total period in the year for which the person has rights in the FIF, the item **income interest** calculated under section EX 50(4) for the person and the FIF is 10% or more; and”.

(2) In section EX 35, list of defined terms, delete “direct income interest”.

(3) **Subsection (1)** applies for income years beginning on or after 1 July 2011.

135 Section EX 44 amended (Five calculation methods)

- (1) In section EX 44(1), before paragraph (a), replace “FIF income or loss” with “FIF income or loss from an attributing interest”.
- (2) In section EX 44, list of defined terms,—
 - (a) delete “fair dividend rate”: 5
 - (b) insert “attributing interest” and “fair dividend rate method”.

136 Section EX 50 amended (Attributable FIF income method)

- (1) In section EX 50(6), before the formula, replace “an indirect income interest (an **indirect attributing interest**) in the foreign company that would be an attributing interest for the person if held as a direct income interest” with “an indirect attributing interest”. 10
- (2) In section EX 50, list of defined terms,—
 - (a) delete “taxed FIF relationship”: 15
 - (b) insert “indirect attributing interest” and “taxed FIF connection”.
- (3) **Subsection (1)** applies for the 2014–15 and later income years.

137 New section EX 51B inserted (Requirements to use different forms of fair dividend rate method) 20

- (1) After section EX 51, insert:
 - “**EX 51B Requirements to use different forms of fair dividend rate method**
 - “*When this section applies* 25
 - “(1) This section applies when a person calculates FIF income from an attributing interest in a FIF for an income year (the **current year**) under the fair dividend rate method.
 - “*When person must use fair dividend rate periodic method*
 - “(2) A person must use the fair dividend rate periodic method under section EX 53 for the attributing interest for the current year if the person— 30
 - “(a) is a unit trust or other entity that—
 - “(i) makes investments for the benefit of other persons (the **investors**); and 35

- “(ii) assigns each investor an interest in a proportion of the net returns from the investments; and
- “(iii) determines the value of each investor’s interests for each of a number of periods making up the income year: 5
- “(b) for the attributing interest, uses the fair dividend rate periodic method for the income year ending before the beginning of the current year and uses the fair dividend rate annual method under section EX 52 for an income year included in the period that is the shorter of— 10
- “(i) the 4-year period ending before the beginning of the current year:
- “(ii) the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year. 15
- “When person must use fair dividend rate annual method*
- “(3) A person must use the fair dividend rate annual method for the attributing interest for the current year if the person uses for the attributing interest— 20
- “(a) the fair dividend rate annual method for the income year ending before the beginning of the current year; and
- “(b) the fair dividend rate periodic method for an income year included in the period that is the shorter of—
- “(i) the 4-year period ending before the beginning of the current year: 25
- “(ii) the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year. 30
- “Defined in this Act: attributing interest, fair dividend rate annual method, fair dividend rate method, fair dividend rate periodic method, FIF, FIF income, income year, unit trust”.
- (2) **Subsection (1)** applies for the 2016–17 and later income years. 35

138 Section EX 52 amended (Fair dividend rate method: usual method)

- (1) Replace the heading to section EX 52 with “**Fair dividend rate annual method**”.
- (2) Replace section EX 52(1)(b) with: 5
 “(b) is not required under **section EX 51B** to use the fair dividend rate periodic method; and
 “(c) does not choose under section EX 53 to use the fair dividend rate periodic method.”
- (3) In section EX 52(2), replace “the fair dividend rate method” 10
 with “the fair dividend rate annual method”.
- (4) In section EX 52(7)(a), after “FDR interest”, insert “from the shareholding for the FDR interest”.
- (5) In section EX 52(7)(b), after “FDR interest”, insert “from the shareholding for the FDR interest”. 15
- (6) In section EX 52(10)(a), before subparagraph (i), replace “reorganisation” with “reorganisation affecting the shareholding for the FDR interest”.
- (7) In section EX 52(10)(b), replace “reorganisation” with “reorganisation affecting the shareholding for the FDR interest”. 20
- (8) In section EX 52(14C), replace “the fair dividend rate method” with “the fair dividend rate annual method”.
- (9) In section EX 52, list of defined terms, insert “fair dividend rate annual method” and “fair dividend rate periodic method”.
- (10) **Subsections (1), (2), (3), (4), (5), (6), (7), and (8)** apply for 25
 the 2016–17 and later income years.

139 Section EX 53 amended (Fair dividend rate method for unit-valuing funds and others by choice)

- (1) In section EX 53, replace the heading with “**Fair dividend rate periodic method**”. 30
- (2) Replace section EX 53(1) and (1B) with:
 “*When this section applies*
 “(1) This section applies when a person (the **interest holder**), who calculates under the fair dividend rate method the FIF income from an attributing interest in a FIF for an income year,— 35

- “(a) is required under **section EX 51B** to use the fair dividend rate periodic method:
- “(b) determines the market value of the attributing interest for each period of a day (the **unit valuation period**) in the income year and— 5
- “(i) is not required to use the fair dividend rate periodic method; and
- “(ii) chooses to use the fair dividend rate periodic method.”
- (3) In section EX 53, list of defined terms, insert “fair dividend rate periodic method”. 10
- (4) **Subsection (2)** applies for the 2016–17 and later income years.
- 140 Section EX 58 amended (Additional FIF income or loss if CFC owns FIF)** 15
- (1) Replace section EX 58(1)(ab) with:
- “(ab) as a result of an income interest of the CFC in a FIF, the person has an indirect attributing interest in the FIF for the accounting period; and”.
- (2) Replace section EX 58(4)(b) with: 20
- “(b) otherwise apply the calculation rules in sections EX 44 to EX 61, for the period when the person held the income interest in the CFC, as if the person directly held the attributing interest in the FIF; and”.
- (3) Replace **section EX 58(4)(b)** with: 25
- “(b) otherwise apply the calculation rules in sections EX 44 to EX 61 to the CFC and the CFC’s interest in the FIF, for the period when the person held the indirect attributing interest; and”.
- (4) In section EX 58(6), replace the subsection heading with “*Non-attributing Australian CFCs and non-attributing active CFCs*”. 30
- (5) In section EX 58(6), replace “whether or not the CFC is a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)” with “regardless of whether the CFC is a non-attributing active CFC under section EX 21B or a non-attributing Australian CFC under section EX 22”. 35

- (6) In section EX 58, list of defined terms, insert “indirect attributing interest”.
- (7) **Subsection (2)** applies for income years beginning on or after 1 July 2011.
- (8) **Subsections (1) and (3)** apply for the 2014–15 and later income years. 5

141 Section EX 62 amended (Limits on changes of method)

- (1) Repeal section EX 62(2)(a).
- (2) Repeal section EX 62(6)(a).
- (3) In section EX 62(6)(b), replace “other than under paragraph (a)” with “other than a change from the branch equivalent method”. 10
- (4) In section EX 62, list of defined terms,—
 - (a) delete “settlor”:
 - (b) insert “branch equivalent method” and “gifting settlor”. 15

142 Section EX 63 amended (Consequences of changes in method)

- (1) In section EX 63(1)(b), replace “, the accounting profits method, or the branch equivalent method” with “or the accounting profits method”. 20
- (2) In section EX 63, list of defined terms, delete “branch equivalent method”.

143 Section EX 72 amended (Commissioner’s default assessment power)

In section EX 72(2), replace “FIF income or loss, or attributed repatriation” with “or FIF income or loss”. 25

144 Section EZ 5 amended (Reduction: bloodstock not previously used for breeding in New Zealand: pre-1 August 2006)

- (1) In section EZ 5(1)(b)(i), replace “matrimonial agreement” with “relationship agreement”. 30
- (2) In section EZ 5, list of defined terms,—
 - (a) delete “matrimonial agreement”:
 - (b) insert “relationship agreement”.

145 New section EZ 32G inserted (Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014)

After section EZ 32F, insert:

“EZ 32G Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014 5

“When this section applies

“(1) This section applies when a person has, before 1 April 2014, an interest in a foreign superannuation scheme and—

“(a) the interest would be an attributing interest in the absence of this provision; and 10

“(b) on and after 1 April 2014, the interest is not a FIF superannuation interest; and

“(c) the person—

“(i) does not, before 1 April 2014, derive from the foreign superannuation scheme a payment that is a withdrawal: 15

“(ii) derives payments, each of which is a pension, from the foreign superannuation scheme before 1 April 2014 and includes each payment in a return of income, for the income year of the payment, that is received by the Commissioner by the due date for the return of income. 20

“No FIF income or loss from interest

“(2) The person is treated as having no FIF income or loss from the interest for the period before 1 April 2014. 25

“Defined in this Act: attributing interest, Commissioner, FIF income, FIF superannuation interest, foreign superannuation scheme, income year, loss, return of income”.

146 New section EZ 69B inserted (IFRS financial reporting method: equity or other comprehensive income) 30

(1) After section EZ 69, insert:

“EZ 69B IFRS financial reporting method: equity or other comprehensive income

“When this section applies 35

“(1) This section applies when—

- “(a) section EW 15D(2)(b) (IFRS financial reporting method) modifies an IFRS rule so that the person must allocate an amount of equity or other comprehensive income for a financial arrangement to the 2015–16 income year for tax purposes; and 5
- “(b) the person does not allocate, for the financial arrangement, an amount of equity or other comprehensive income to the 2014–15 income year that the person would be required to allocate if the requirement referred to in **paragraph (a)** applied for the 2014–15 income year. 10
- “*Change of spreading method*
- “(2) The change from the non-allocation treatment described in **subsection (1)(b)** to the allocation treatment described in **subsection (1)(a)** is treated as a change of spreading method for the 2015–16 income year under section EW 26(2) (Change of spreading method). Sections EW 26(3) and (4) and EW 27 (Spreading method adjustment formula) apply accordingly, but section EW 26(6) does not apply. 15
- “Defined in this Act: financial arrangement, IFRS, income year”.
- (2) **Subsection (1)** applies for the 2015–16 and later income years. 20
- 147 Section EZ 70 amended (Insurance for Canterbury earthquake damage of property: deemed sale and purchase)**
- (1) In section EZ 70, heading, replace “**deemed sale and purchase**” with “**treatment as disposal and reacquisition**”. 25
- (2) In section EZ 70(2), heading, replace “*Deemed sale and re-purchase*” with “*Treatment as disposal and reacquisition*”.
- 148 Section EZ 76 amended (Consideration for property or services: non-IFRS foreign ASAPs before 2014–15 income year)** 30
- In section EZ 76(1)(a), replace “which section EW 32” with “which section EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease)”. 35

149 Section FB 1 replaced (What this subpart does) [1 April 2008]

(1) Replace section FB 1 with:

“FB 1 When this subpart applies

This subpart applies when property is transferred on a settle- 5
ment of relationship property.

“Defined in this Act: property, settlement of relationship property

“FB 1B Meaning of settlement of relationship property and property

In this subpart—

10

“(a) a **settlement of relationship property** means a trans-
action under a relationship agreement that creates a dis-
posal and acquisition of property:

“(b) **property** includes a look-through interest for a look-
through company.

15

“Defined in this Act: look-through company, look-through interest, property,
relationship agreement, settlement of relationship property

“FB 1C General treatment of transfers

“Transferor liable for tax obligations prior to transfer

“(1) The transferor of property to which this subpart applies is li- 20
able for a tax obligation in relation to the property relating to
the period beginning when the transferor acquires the property
and ending when the property is transferred to the transferee.

“General treatment for transferor

“(2) The transferor is not liable for a tax obligation in relation to 25
the property that would otherwise arise from disposing of the
property.

“Transferee liable for tax obligations that occur after transfer

“(3) The transferee is liable for a tax obligation in relation to the 30
property that arises on or after the date on which the property
is transferred.

“General treatment for transferee

“(4) For the transferee’s tax obligations in relation to the prop-
erty,—

“(a) the transferee is treated as having—

35

“(i) acquired the property at the cost of the property to the transferor:	
“(ii) acquired the property on the date on which the transferor acquired the property:	
“(iii) the status, intention, and purpose of the transferor in relation to the property:	5
“(b) the transferor is treated as having not owned the property.	
<i>“Relationship with sections FB 2 to FB 21</i>	
“(5) Sections FB 2 to FB 21 override this section.	10
“Defined in this Act: property, tax”.	
(2) Subsection (1) applies for the 2008–09 and later income years.	
150 Section FC 1 amended (What this subpart does)	
(1) In section FC 1, replace the heading with “ Disposals to which this subpart applies ”.	15
(2) Replace section FC 1(1)(c) with:	
“(c) the transfer of property on a distribution by a trustee of a trust to a beneficiary of the trust, unless the distribution is part of an arrangement under which the beneficiary pays an amount for the property:”.	20
(3) In section FC 1, list of defined terms, insert “property”.	
(4) Subsection (2) applies for the 2008–09 and later income years.	
151 Section FC 4 replaced (Property transferred to charities or to close relatives and others)	25
(1) Replace section FC 4 with:	
“FC 4 Property transferred to charities or to close relatives and others	
<i>“When this section applies</i>	30
“(1) This section applies in the circumstances described in section FC 1(1)(b) when tax-base property is transferred on a person’s death if—	
“(a) each beneficiary of the deceased person is described in subsection (2) ; and	35

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- “(b) no life interest in the property is created; and
“(c) no trust over the property is created, other than a trust to execute the will and administer the estate; and
“(d) the net income of the estate is distributed as described in **subsection (3)**. 5
- “*Beneficiaries of deceased*
- “(2) A beneficiary of the deceased person must be:
“(a) a close relative of the deceased person:
“(b) a person exempt under section CW 41, CW 42, or CW 43 (which relate to exempt income of charities). 10
- “*Income from estate must be distributed*
- “(3) While the administration of the estate is continuing, the net income of the estate is distributed to the extent allowed—
“(a) under the will or the rules governing intestacy; and
“(b) by the trustee’s legal obligations. 15
- “*Transfer subject to subpart FB*
- “(4) The transfer is treated as a transfer of property on a settlement of relationship property under subpart FB (Transfers of relationship property).
“Defined in this Act: close relative, net income, property, settlement of relationship property, tax-base property, trustee”. 20
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 152 Section FC 6 amended (Forestry assets transferred to close relatives) 25**
- (1) Replace section FC 6(2), other than the heading, with:
“(2) A transfer of a forestry asset, including any intervening transfer to an executor or administrator, is treated as a transfer of property on a settlement of relationship property—
“(a) under section FB 6 (Timber or right to take timber), when the forestry asset is timber or a right to take timber: 30
“(b) under section FB 7 (Land with standing timber), when the forestry asset is standing timber.”
- (2) **Subsection (1)** applies for the 2008–09 and later income 35 years.

- 153 Section FE 1 amended (What this subpart does)**
In section FE 1, list of defined terms, delete “trustee”.
- 154 Section FE 4 amended (Some definitions)**
In section FE 4, list of defined terms, delete “control interest”.
- 155 Section FE 12 amended (Calculation of debt percentages)** 5
- (1) In section FE 12(5)(a), replace “FE 31” with “FE 31, FE 31D,”.
- (2) In section FE 12(5)(b), replace “FE 31B to FE 32” with “FE 31B, FE 31C, and FE 32”.
- (3) **Subsections (1) and (2)** apply for the 2015–16 and later income years. 10
- 156 Section FE 18 amended (Measurement of debts and assets of worldwide group)**
- (1) In section FE 18(3B)(b)(ii), replace “section FE 3(e)” with “section FE 3(1)(d)”. 15
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 157 Section FE 28 amended (Identifying members of New Zealand group)**
- (1) In section FE 28(2)(b), before subparagraph (i), replace “company that is resident” with “company that is not a member of the New Zealand banking group of a registered bank and is resident”. 20
- (2) In section FE 28(2)(b)(iii), replace “parent; or” with “parent; and”. 25
- (3) Delete section FE 28(2)(b)(iv).
- (4) In section FE 28(2)(b), before subparagraph (i), replace “company that” with “company that is not a member of the New Zealand banking group of a registered bank and”.
- (5) In section FE 28(2)(b)(iii), replace “parent; or” with “parent.” 30
- (6) Delete section FE 28(2)(b)(iv).
- (7) **Subsections (4), (5), and (6)** apply for income years beginning on or after 1 July 2009.

158 Section FE 31D replaced (Worldwide group for entity with New Zealand parent depending on non-resident owning body)

(1) Replace section FE 31D with:

“FE 31D Worldwide group for entity controlled by non-resident owning body or trustee 5

A worldwide group for an excess debt entity is made up of the entity itself and the entity’s New Zealand group if—

“(a) the entity would not meet the requirements of section FE 2 in the absence of section FE 2(1)(cb): 10

“(b) the entity’s New Zealand parent is identified to be the trustee of the entity by section FE 26(4D).

“Defined in this Act: excess debt entity, trustee”.

(2) **Subsection (1)** applies for the 2015–16 and later income years. 15

159 Section FO 12 amended (Financial arrangements: resident’s restricted amalgamation, companies in wholly-owned group)

(1) In section FO 12(1)(d), replace “unless section IE 2 (Treatment of tax losses by amalgamating company) applies when the tax losses are those of the consolidated group” with “except to the extent to which the loss balance is attributed to the amalgamated company under section IE 2 (Treatment of tax losses by amalgamating company)”. 20

(2) **Subsection (1)** applies for the 2008–09 and later income years. 25

160 Section FO 13 amended (Financial arrangements: resident’s restricted amalgamation, calculation method unchanged)

(1) Replace section FO 13(2) with: 30
“*Disposal and acquisition*

“(2) The amalgamating company is treated as having disposed of the financial arrangement for consideration, and the amalgamated company is treated as having acquired the financial arrangement for that consideration. 35

- “Base price adjustment and income or expenditure*
- “(3) For the income year of the amalgamation,—
- “(a) the amalgamating company must calculate a base price adjustment under section EW 31 (Base price adjustment formula) as modified by **subsection (4)**; and 5
- “(b) the amalgamated company has an amount of income or expenditure determined under **subsection (5)**.
- “Base price adjustment for amalgamating company*
- “(4) For the income year of the amalgamation, the consideration for the disposal and acquisition of the financial arrangement is an amount that results in the base price adjustment for the amalgamating company under section EW 31 representing for the amalgamating company an allocation that is fair and reasonable, as between the amalgamating company and the amalgamated company, of the income or expenditure relating to the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place. 10 15
- “Income or expenditure of amalgamated company*
- “(5) For the income year of the amalgamation, the amalgamated company has an amount of income or expenditure that represents for the amalgamated company an allocation that is fair and reasonable, as between the amalgamating company and the amalgamated company, of the income or expenditure relating to the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place.” 20 25
- (2) **Subsection (1)** applies for the 2008–09 and later income years, unless **subsection (3)** applies.
- (3) **Subsection (1)** does not apply for a person and a financial arrangement if the person has taken a tax position for the financial arrangement— 30
- (a) relying on section FO 13 in the absence of the amendment made by **subsection (1)**; and
- (b) for the 2008–09 or a later income year; and 35
- (c) in a tax return filed before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill is introduced.

- 161 Section GB 8 repealed (Arrangements involving attributed repatriation from CFCs)**
Repeal section GB 8.
- 162 Section GB 9 amended (Temporary disposals of direct control or income interests)** 5
- (1) In section GB 9(1)(b), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.
- (2) In section GB 9(1)(d), before subparagraph (i), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”. 10
- (3) In section GB 9, list of defined terms, delete “attributed repatriation”.
- 163 Section GB 11 amended (Temporary increases in totals for control interest categories)**
- (1) In section GB 11(1)(d), before subparagraph (i), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”. 15
- (2) In section GB 11, list of defined terms, delete “attributed repatriation”.
- 164 Section GB 13 amended (When combination of changes reduces income)** 20
- (1) In section GB 13(1)(b), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.
- (2) In section GB 13(1)(e), before subparagraph (i), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”. 25
- (3) In section GB 13, list of defined terms, delete “attributed repatriation”.
- 165 New section GB 15BA inserted (CFC income or loss: arrangements for inclusion of CFC in test group)** 30
- (1) After section GB 15, insert:

**“GB 15BA CFC income or loss: arrangements for inclusion
of CFC in test group**

“When this section applies

“(1) This section applies where—

“(a) for 2 or more accounting periods, a CFC is not a non- 5
attributing active CFC unless a person elects to test the
CFC together with other CFCs as a group (**test group**)
under—

“(i) section EX 21D (Non-attributing active CFC: de- 10
fault test); or

“(ii) section EX 21E (Non-attributing active CFC: test
based on accounting standard); and

“(b) the person enters into an arrangement to—

“(i) elect to include the CFC in a test group for 1 of 15
the accounting periods; and

“(ii) not elect to include the CFC in a test group for
another of the accounting periods; and

“(c) the effect of the arrangement is that the person has less 20
net attributable CFC income when the CFC is in a test
group and greater net attributable CFC losses when the
CFC is not in a test group.

“Treatment of election

“(2) The Commissioner may treat an election as having been made 25
or not made, as applicable, to the extent appropriate to prevent
the effect of the arrangement.

“Defined in this Act: accounting period, arrangement, CFC, Commissioner,
net attributable CFC income, net attributable CFC loss, non-attributing active
CFC”.

(2) **Subsection (1)** applies for the 2016–17 and later income 30
years.

**166 Section GB 27 amended (Attribution rule for income
from personal services)**

Replace section GB 27(3)(d) and (e) with:

“(d) if the total amount to be attributed to the working per- 35
son, for the associated entity and the income year, is less
than \$5,000, unless—

“(i) the application of this paragraph would prevent
income being attributed to the working person for

- the income year in relation to another associated entity:
- “(ii) the associated entity is a CFC and a person who holds an attributing interest in the CFC files, after the date (the **Royal assent date**) on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent, a return of income in which the amount of income attributed to the working person is determined under this section: 5 10
- “(e) if the associated entity is a CFC and—
- “(i) the amount gives rise to attributed CFC income under section CQ 2(2B) (When attributed CFC income arises) or attributed CFC loss under section DN 2(2) (When attributed CFC loss arises) for a person who holds an attributing interest in the CFC; and 15
- “(ii) the person who holds the attributing interest in the CFC files, after the Royal assent date, a return of income in which the amount attributed to the working person is determined under section EX 20B (Attributable CFC amount).” 20
- 167 Section HC 10 amended (Complying trusts)**
- (1) After section HC 10(1)(a), insert: 25
- “(ab) the following requirements are met:
- “(i) a person makes an election under section HC 33; and
- “(ii) for the life of the trust up to the time of distribution, the tax obligations relating to the trustee’s income tax liability for the trustee income are satisfied for each tax year; or”. 30
- (2) In section HC 10(3), after “subsection (1)(a)”, insert “and **(ab)**”. 35
- (3) Replace section HC 10(4), other than the heading, with:
- “(4) For the purposes of **subsection (1)(a) and (ab)**, section HC 29(6) does not apply in determining whether the requirements are met.”

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

168 Section HC 27 amended (Who is a settlor?)

- (1) Repeal section HC 27(1).
 (2) In section HC 27, list of defined terms, delete “consolidation rules”.

169 Section HC 29 amended (Settlers’ liability to income tax)

- (1) In section HC 29(7), replace “HC 10(1)(a)(ii)” with “HC 10(1)(a) and **(ab)**”.
 (2) **Subsection (1)** applies for the 2008–09 and later income years.

170 Section HC 33 amended (Choosing to satisfy income tax liability of trustee)

- (1) In section HC 33(1), after “trust”, insert “as described in **subsection (2)**”.
- (2) After section HC 33(1), insert:
“Trustee treated as making election
 “(1B) A trustee is treated as making an election under subsection (1), ignoring the requirement in subsection (4), if—
 “(a) for the period beginning at the start of the income year in which a settlement is first made on the trust and ending before the date on which the trust ceases to be a complying trust as described in **paragraph (b)**, the trust is a complying trust under section HC 10(1)(a); and
 “(b) the trust ceases to be a complying trust under section HC 10(1)(a) because the trust does not meet the requirement in section HC 10(1)(a)(i); and
 “(c) the trustee indicates that the trust is a complying trust in the return of income for each income year ending after a settlement was first made on the trust and before the distribution referred to in section HC 10(1).”
- (3) Replace section HC 33(2), other than the heading, with:
 “(2) The person making the election—
 “(a) must satisfy the income tax liability of the trustee as if the trust had a New Zealand resident as settlor; and

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- “(b) is not required to satisfy the income tax liability of the beneficiary that the trustee must satisfy as agent under section HC 32.”
- (4) Replace section HC 33(3), other than the heading, with:
- “(3) The election under subsection (1) applies— 5
- “(a) for the purposes of section HC 30(3), from the date that it is made:
- “(b) for the purposes of sections **HC 10(1)(ab)** and HC 29(5), on and after the start of the income year in which a settlement was first made on the trust.” 10
- (5) In section HC 33, list of defined terms, insert “complying trust”, “distribution”, and “New Zealand resident”.
- (6) **Subsections (1), (2), (3), and (4)** apply for the 2008–09 and later income years.
- 171 Section HG 10 amended (Disposal of livestock) 15**
- (1) In section HG 10(1), replace “a person” with “a person (the **exiting partner**)”.
- (2) In section HG 10, list of defined terms, insert “entering partner”.
- 172 Section HM 42 amended (Exit calculation option) 20**
- (1) In section HM 42(1), replace “section 31B” with “section 31C”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 173 Section HM 43 amended (Quarterly calculation option) 25**
- (1) In section HM 43(1), replace “section 31B” with “section 31C”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 174 Section HM 44 amended (Provisional tax calculation option) 30**
- (1) In section HM 44(1), replace “section 31B” with “section 31C”.

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

175 Section HR 3 amended (Definitions for section HR 2: group investment funds)

- (1) In section HR 3(5), definition of **designated sources**, paragraph (b), replace “individual” with “individual, and”. 5
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

176 Section HR 8 amended (Transitional residents)

- (1) Replace section HR 8(2) to (4) with: 10
“Meaning of transitional resident
- “(2) A person is a **transitional resident** if—
- “(a) they are a natural person; and
- “(b) they are resident in New Zealand through acquiring a permanent place of abode as described in section YD 1(2) or through the 183-day rule set out in section YD 1(3); and 15
- “(c) for a continuous period (the **non-residence period**) of at least 10 years immediately before they meet the requirements of section YD 1(2) or (3) for becoming resident in New Zealand, ignoring the rule in section YD 1(4), they— 20
- “(i) did not meet the requirements of that section:
- “(ii) were not resident in New Zealand; and
- “(d) they were not a transitional resident before the non-residence period; and 25
- “(e) the period described in **subsection (3)** has not ended.
- “Period of transitional residence*
- “(3) The period for a person— 30
- “(a) begins on the first day of the residence required by **subsection (2)(b)**; and
- “(b) ends on the earliest of—
- “(i) the day they nominate under **subsection (4)**:
- “(ii) the day before the person stops being a New Zealand resident: 35

“(iii) the last day of the 48th month after the month in which the non-residence period ends.

“*Choosing not to be transitional resident*

- “(4) A person who would otherwise be a transitional resident in an income year may choose by notice to the Commissioner or by notice under subsection (5) not to be a transitional resident on and after a date nominated by the person, which may be on or after the start of the income year.” 5
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 10

177 Section HZ 4B amended (Qualifying companies: transition into partnership)

- (1) In section HZ 4B(3)(b), replace “tax position” with “tax situation”. 15
- (2) In section HZ 4B(3)(b), replace “**historical tax positions**” with “**historical tax situations**”. 15
- (3) In section HZ 4B(3)(c)(i), replace “historical tax positions” with “historical tax situations”. 15
- (4) In section HZ 4B(3)(c)(ii), replace “tax position” with “tax situation”. 20
- (5) In section HZ 4B(3)(c)(ii), replace “historical tax positions” with “historical tax situations”. 20
- (6) In section HZ 4B(3)(d), replace “tax position” with “tax situation”. 20

178 Section HZ 4D amended (Qualifying companies: transition into sole traderships) 25

- (1) In section HZ 4D(3)(b), replace “tax position” with “tax situation”. 25
- (2) In section HZ 4D(3)(b), replace “**historical tax position**” with “**historical tax situation**”. 30
- (3) In section HZ 4D(3)(c)(i), replace “historical tax position” with “historical tax situation”. 30
- (4) In section HZ 4D(3)(c)(ii), replace “tax position” with “tax situation” in each place where it appears. 30

- (5) In section HZ 4D(3)(d), replace “tax position” with “tax situation”.

179 Section IQ 1A amended (When this subpart applies)

- (1) In section IQ 1A(b), replace “attributed FIF income method” with “attributable FIF income method”. 5
- (2) In section IQ 1A, list of defined terms,—
- (a) delete “attributed CFC net income”, “attributed FIF income method”, and “group”:
- (b) insert “attributed CFC income” and “attributable FIF income method”. 10

180 Section LA 7 amended (Remaining refundable credits: tax credits under social policy schemes)

- (1) In section LA 7, heading, replace “under social policy schemes” with “for social policy and other initiatives”.
- (2) After section LA 7(1)(a), insert: 15
“(ab) **section LB 4B** (Tax credit for R&D tax losses):”.
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 April 2015.

181 New section LB 4B inserted (Tax credit for R&D tax losses)

- (1) After section LB 4, insert: 20
“**LB 4B Tax credit for R&D tax losses**
A person has a tax credit for a tax year equal to their tax credit under **subpart MX** (Tax credits for R&D tax losses) for the tax year.
“Defined in this Act: tax credit, tax year”. 25
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.

182 Section LD 1 amended (Tax credits for charitable or other public benefit gifts)

- In section LD 1(5), replace “under social policy schemes” with “for social policy and other initiatives”. 30

- 183 Section LD 3 amended (Meaning of charitable or other public benefit gift)**
- (1) In section LD 3(1)(a), replace “gifts:” with “gifts) (the **entity**):”.
 - (2) In section LD 3(1)(b),— 5
 - (a) replace “a subscription paid to a society, institution, association, organisation, trust, or fund,” with “a subscription of \$5 or more paid to an entity”; and
 - (b) replace “that” with “that entity”.
 - (3) In section LD 3(2), before paragraph (a), replace “subsection (1)(a)” with “subsection (1)(a) and (b)”. 10
 - (4) Replace section LD 3(2)(bc) with:
“ (bc) a tertiary education institution.”.
 - (5) In section LD 3, list of defined terms, insert “tertiary education institution”. 15
 - (6) **Subsections (1), (2), (3), and (4)** apply for the 2008–09 and later income years.
- 184 Subpart LH repealed (Tax credits for expenditure on research and development)**
- (1) Repeal subpart LH. 20
 - (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 185 Heading after section LP 6 deleted (Supplementary dividend holding companies)**
- Repeal the heading after section LP 6. 25
- 186 Section LU 1 amended (Tax credits for mineral miners)**
- (1) In section LU 1(4)(b), replace “net mining income” with “net income”.
 - (2) In section LU 1, list of defined terms,— 30
 - (a) delete “net mining income”:
 - (b) insert “net income”.
- 187 Section MA 1 amended (What this Part does)**
- (1) After section MA 1(b), insert:

- “(bb) for R&D tax losses for an income year beginning on or after 1 April 2015, *see* **subpart MX** (Tax credits for R&D tax losses).”
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 5
- 188 Section MB 1 amended (Adjustments for calculation of family scheme income)**
- (1) In section MB 1(5D), replace “interest payable to the person under section EH 6 (Interest on deposits in main income equalisation account)” with “interest payable, under section EH 6 (Interest on deposits in main income equalisation account), to the person or a person described in section MB 9(b) to (d)”. 10
- (2) **Subsection (1)** applies for the 2011–12 and later income years.
- 189 Section MB 13 amended (Family scheme income from other payments)** 15
- (1) Replace section MB 13(2)(f) with:
“(f) an educational scholarship or educational bursary:”.
- (2) **Subsection (1)** applies for the 2011–12 and later income years. 20
- 190 Section MC 5 amended (Third requirement: residence)**
- (1) In section MC 5(2)(b), delete “, and has not made an election under section HR 8(4) (Transitional residents),”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 25
- 191 Section MF 6 amended (Overpayment or underpayment of tax credit)**
- In section MF 6(3), replace “under social policy schemes” with “for social policy and other initiatives”.
- 192 New subpart MX inserted (Tax credits for R&D tax losses)** 30
- (1) Before subpart MZ, insert:

“Subpart MX —Tax credits for R&D tax
losses

“**MX 1 When subpart applies**

This subpart applies to a person for an income year when—

- “(a) the person chooses that the subpart apply to the person 5
for the income year; and
- “(b) the corporate eligibility criteria in **section MX 2** are
met; and
- “(c) ignoring this subpart, the person has a net loss for the
corresponding tax year; and 10
- “(d) if the person is a member of a group of companies, the
group of companies, in aggregate and ignoring this sub-
part, has a net loss for the corresponding tax year; and
- “(e) the person has R&D expenditure relating to research or
development; and 15
- “(f) the wage intensity criteria in **section MX 3** are met; and
- “(g) intellectual property and know-how that results from
the research or development vests in the person, solely
or jointly; and
- “(h) the person complies with all tax law obligations; and 20
- “(i) if the person is a member of a group of companies, all
members of the group of companies comply with all tax
law obligations.

“Defined in this Act: group of companies, income year, intellectual property,
know-how, net loss, R&D expenditure, tax year 25

“**MX 2 Corporate eligibility criteria**

For the purposes of **section MX 1(b)**, a person meets the cor-
porate eligibility criteria for an income year if, for the income
year or for the part of the income year for which the person
exists if that is not the whole income year,— 30

- “(a) the person is a company that is resident in New Zealand;
and
- “(b) there is no double tax agreement under which, and for
the purposes of which, the person is treated as a resident
of a foreign country or territory; and 35
- “(c) if the person is a member of a group of companies, the
group does not include—

- “(i) a company that is not resident in New Zealand:
“(ii) a company that is treated under, and for the purposes of, a double tax agreement as a resident of a foreign country or territory; and
“(d) the person is not a special corporate entity; and 5
“(e) the person is not a qualifying company; and
“(f) the person is not an entity established by or subject to—
“(i) the Education Act 1989:
“(ii) the New Zealand Public Health and Disability Act 2000: 10
“(iii) the Crown Entities Act 2004; and
“(g) no special corporate entity or qualifying company directly or indirectly owns 50% or more of the shares in the person; and
“(h) the person is not a listed company or otherwise listed on a recognised exchange. 15
- “Defined in this Act: company, double tax agreement, group of companies, income year, listed company, qualifying company, recognised exchange, resident in New Zealand, special corporate entity
- “**MX 3 Wage intensity criteria** 20
“*Wage intensity criteria*
“(1) For the purposes of **section MX 1(f)**, a person meets the wage intensity criteria for an income year if, for the income year or for the part of the income year for which the person exists if that is not the whole income year,— 25
“(a) the amount calculated for the person using the formula in **subsection (2)** is 0.2 or more; and
“(b) if the person is a member of a group of companies, the amount calculated for the group in aggregate using the formula in **subsection (2)** is 0.2 or more. 30
- “*Formula*
“(2) The formula is—
$$\frac{\text{total R\&D labour expenditure}}{\text{total labour expenditure.}}$$
- “*Definition of items in formula*
“(3) In the formula,—

- “(a) **total R&D labour expenditure** is the total for the income year, or the part of the income year, of—
- “(i) the total amount of contractor R&D consideration multiplied by 0.66:
- “(ii) the amount of salary or wages paid to employees 5
 for R&D material provided by them:
- “(iii) the amount paid to shareholder-employees, to
 which section RD 3(3) or (4) (PAYE income
 payments) apply, for R&D material provided by
 them: 10
- “(b) **total labour expenditure** is the total for the income year, or the part of the income year, of—
- “(i) the total amount of contractor R&D consideration multiplied by 0.66:
- “(ii) the amount of salary or wages paid to employees: 15
- “(iii) the amount paid to shareholder-employees to
 which section RD 3(3) or (4) apply.
- “*Meaning of contractor R&D consideration*
- “(4) In this Act, **contractor R&D consideration** means—
- “(a) for a person, an amount, excluding GST, paid by the person 20
 to an external contractor as consideration for R&D
 material provided by the contractor:
- “(b) for a group of companies, an amount, excluding GST,
 paid by a member of the group to an external contractor
 as consideration for R&D material provided by the 25
 contractor:
- “Defined in this Act: contractor R&D consideration, employee, group of companies, income year, R&D material, salary or wages, shareholder-employee
- “**MX 4 Tax credit for R&D tax losses** 30
- “*Amount of credit* 30
- “(1) For a tax year, the person has a tax credit equal to the least of the following:
- “(a) \$500,000 multiplied by 0.28, if the tax year is the
 2015–16 tax year:
- “(b) \$800,000 multiplied by 0.28, if the tax year is the 35
 2016–17 tax year:
- “(c) \$1,100,000 multiplied by 0.28, if the tax year is the
 2017–18 tax year:

- “(d) \$1,400,000 multiplied by 0.28, if the tax year is the 2018–19 tax year:
- “(e) \$1,700,000 multiplied by 0.28, if the tax year is the 2019–20 tax year:
- “(f) \$2,000,000 multiplied by 0.28, if the tax year is the 2020–21 or later tax year: 5
- “(g) the person’s net loss for the tax year multiplied by 0.28:
- “(h) the person’s total R&D expenditure for the tax year multiplied by 0.28:
- “(i) 1.5 multiplied by the person’s total R&D labour expenditure for the tax year, described in **section MX 3(3)(a)**, multiplied by 0.28. 10

“*Relationship with subject matter*

- “(2) **Section 70C** of the Tax Administration Act 1994 applies for a tax credit for R&D tax losses. 15

“Defined in this Act: net loss, R&D expenditure, tax credit for R&D tax losses, tax year

“**MX 5 Cancellation of R&D tax losses**

The Commissioner must extinguish the person’s tax loss for a tax year to the extent of the amount given by dividing the amount of the tax credit for R&D tax losses for the tax year by 0.28. 20

“Defined in this Act: Commissioner, tax credit for R&D tax losses, tax loss, tax year

“**MX 6 Reinstatement of R&D tax losses and R&D repayment tax** 25

“*When this section applies*

- “(1) This section applies when a person (the **company**) has had a tax credit for R&D tax losses, and—
- “(a) in an income year (the **reinstatement year**), the company— 30
 - “(i) disposes of or transfers intangible property, core technology, intellectual property, or know-how:
 - “(ii) fails to meet a corporate eligibility requirement in **section MX 2(a), (b), or (c)**: 35
 - “(iii) is put into liquidation:
 - “(iv) is an amalgamating company:

- “(b) no group of persons exist that has, for a continuity period,—
- “(i) minimum voting interests in the company that add up to 10% or more; and
- “(ii) when a market value circumstance exists for the company in the continuity period, minimum market value interests in the company that add up to 10% or more. 5
- “R&D repayment tax: intellectual property*
- “(2) If **subsection (1)(a)(i)** applies, and **subsection (1)(a)(ii) to (iv) and (b)** do not apply, the company is liable for an amount of R&D repayment tax equal to the lesser of— 10
- “(a) the total of the company’s tax credits for R&D tax losses for income years before or including the reinstatement year minus the total amount of— 15
- “(i) income tax paid by the company for income years later than the earliest income year to which the tax credits relate and before or including the reinstatement year:
- “(ii) earlier payments of R&D repayment tax relating to the tax credits and for income years before or including the reinstatement year; and 20
- “(b) the amount calculated using the formula—
- intangibles’ market value × 0.28.
- “Definition of item in formula*
- “(3) In the formula, **intangibles’ market value** is the market value of the company’s intangible property, core technology, intellectual property, or know-how disposed of or transferred in the income year. 25
- “R&D repayment tax: eligibility and liquidation*
- “(4) If **subsection (1)(a)(ii) to (iv) or (b)** apply, the company is liable for an amount of R&D repayment tax equal to the total of the company’s tax credits for R&D tax losses for income years before or including the reinstatement year minus the total amount of— 30

- “(a) income tax paid by the company for income years later than the earliest income year to which the tax credits relate and before or including the reinstatement year:
- “(b) earlier payments of R&D repayment tax relating to the tax credits and for income years before or including the reinstatement year. 5
- “Reinstatement of R&D tax losses*
- “(5) The company has a deduction under **section DV 26** (Deduction for reinstatement of R&D tax losses) of an amount equal to the R&D repayment tax divided by 0.28. 10
- “Related provisions in Tax Administration Act 1994*
- “(6) **Sections 70C and 97C** of the Tax Administration Act 1994 apply for R&D repayment tax.
- “Some definitions*
- “(7) In this section,— 15
- “**continuity period** means a period that starts on the first day of the first income year for which the company has tax credits for R&D tax losses and ends on the last day of an income year in which, for the company, holdings of voting interests or market value interests change 20
- “**minimum market value interest** means the lowest market value interest that a person has in the company for the continuity period
- “**minimum voting interest** means the lowest voting interest that a person has in the company for the continuity period. 25
- “Defined in this Act: company, continuity period, core technology, deduction, income tax, income year, intellectual property, know-how, liquidation, market value interest, minimum market value interest, minimum voting interest, R&D repayment tax, tax credits for R&D tax losses, voting interest”.
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 30
- 193 Section OB 1 amended (General rules for companies with imputation credit accounts)**
- (1) Replace section OB 1(2)(a)(ii) with:
- “(ii) is acting in the capacity of trustee, other than a trustee of a group investment fund described in 35

paragraph (c) of the definition of **company** in section YA 1 (Definitions); or”.

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

194 New section OB 47B inserted (Tax paid by recipients of tax credits for R&D tax losses) 5

- (1) After section OB 47, insert:

“OB 47B Tax paid by recipients of tax credits for R&D tax losses

“Debit

- “(1) An ICA company having a tax credit under **section MX 4** (Tax credit for R&D tax losses) for a tax year (the **current year**) has an imputation debit for the current year equal to the lesser of the following: 10

“(a) the imputation credit that the company has for the current year under section OB 4; and 15

“(b) the total amount of the company’s tax credits for R&D tax losses, for the period that begins with the earliest income year to which the tax credits relate and ends with the current year, minus the total amount of imputation debits under this section for tax years that are in that period and end before the current year. 20

“Table reference

- “(2) The imputation debit in **subsection (1)** is referred to in **table O2: imputation debits, row 20B** (recipients of tax credits for R&D tax losses). 25

“Debit date

- “(3) The debit date is the last day of the tax year.

“Defined in this Act: amount, ICA company, imputation credit, imputation debit, tax credit for R&D tax losses, tax year”.

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 30

195 Table O2 amended (Imputation debits)

- (1) In table O2, after row 20, insert:

20B	Recipients of tax credits for R&D tax losses	31 March	section OB 47B
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- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.

196 Section OP 27 amended (Consolidated ICA payment of schedular income tax)

- (1) In section OP 27, heading, replace “**schedular income tax**” with “**schedular income tax liability**”. 5
- (2) In section OP 27(1), replace “schedular income tax” with “schedular income tax liability”.
- (3) In section OP 27(2), replace “schedular income tax” with “schedular income tax liability”. 10
- (4) In section OP 27(3), replace “schedular income tax” with “schedular income tax liability”.
- (5) In section OP 27, list of defined terms,—
 (a) delete “schedular income tax”;
 (b) insert “schedular income tax liability”. 15
- (6) **Subsections (2), (3), and (4)** apply for the 2008–09 and later income years.

197 Section OP 50 amended (Consolidated ICA refund of schedular income tax)

- (1) In section OP 50, heading, replace “**schedular income tax**” with “**schedular income tax liability**”. 20
- (2) In section OP 50(1), replace “schedular income tax” with “schedular income tax liability”.
- (3) In section OP 50(2), replace “schedular income tax” with “schedular income tax liability” in each place where it appears. 25
- (4) In section OP 50, list of defined terms,—
 (a) delete “schedular income tax”;
 (b) insert “schedular income tax liability”.
- (5) **Subsections (2) and (3)** apply for the 2008–09 and later income years. 30

198 Table O19 amended (Imputation credits of consolidated imputation groups)

- (1) In table O19, row 22, second column, replace “Schedular income tax” with “Schedular income tax liability”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 5

199 Section RC 7 amended (Estimation method)

- (1) Replace section RC 7(3), other than the heading, with:
 - “(3) On or before an instalment date, the person may choose to revise an estimate made under subsection (2). The amount last estimated is the amount taken into account under section RC 5(5).” 10
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

200 Section RC 17 amended (When GST ratio must not be used) 15

- (1) After section RC 17(1)(b), insert:
 - “(bb) their residual income tax, as disclosed in a return of income filed in the tax year, means they no longer meet the requirements of section RC 16(2); or” 20
- (2) In section RC 17, list of defined terms, insert “residual income tax” and “return of income”.
- (3) **Subsection (1)** applies for the 2016–17 and later income years.

201 Section RC 18 amended (Changing calculation method) 25

- (1) After section RC 18(3)(b), insert:
 - “(bb) the date the person’s return of income referred to in section RC 17(1)(bb) is received by the Commissioner; or”
- (2) In section RC 18(4), after “instalment A,”, insert “and section RC 3(3) does not apply,” 30
- (3) In section RC 18(5), after “instalment date,”, insert “and section RC 3(3) does not apply,”

- (4) In section RC 18(6), after “subsection (4) or (5),”, insert “and the change is not required by section RC 17(1)(bb),”.
- (5) In section RC 18, list of defined terms, insert “return of income”.
- (6) **Subsections (1), (2), (3), and (4)** apply for the 2016–17 and 5 later income years.

202 Section RD 27 amended (Determining fringe benefit values)

- (1) Replace section RD 27(3), other than the heading, with:
 - “(3) In subsection (2), **market value** means the price normally 10 paid, at the time when the fringe benefit is received by the employee, for the fringe benefit in a sale—
 - “(a) in the open market; and
 - “(b) freely offered; and
 - “(c) made on ordinary trade terms; and 15
 - “(d) to a member of the public at arm’s length.”
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

203 Section RD 35 amended (Employment-related loans: value using market interest rates) 20

- (1) Replace section RD 35(1), other than the heading, with:
 - “(1) An employer may choose to value a benefit provided to their employee in an employment-related loan using the market interest on the loan if—
 - “(a) the employer is in the business of lending money to the 25 public:
 - “(b) the employer is in a group of companies that has a member which is in the business of lending money to the public.”
- (2) After section RD 35(4), insert: 30
 - “*Effectiveness of election in some cases*
- “(4B) Despite subsections (3) and (4), the method chosen by an employer described in **subsection (1)(b)** takes effect for the first quarter beginning after the Commissioner receives the election, if the employer— 35
 - “(a) is not in the business of lending money; and

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- “(b) does not pay FBT on an income year basis under section RD 60; and
- “(c) does not pay FBT on an annual basis under section RD 61; and
- “(d) notifies the Commissioner of the proposed change before 1 April 2016. 5
- “*Minimum period of use for method in some cases*
- “(4C) Despite subsections (3) and (4), if **subsection (4B)** applies to the employer’s chosen method, the employer must use the method for a period beginning with the start of the first quarter to which the election applies under **subsection (4B)** and ending with or after the finish of the tax year after the tax year that includes the first quarter.” 10
- (3) In section RD 35, list of defined terms, insert “group of companies” and “year”. 15
- 204 Section RE 18B amended (Capital value increase under inflation-indexed instruments: RWT cap)**
In section RE 18B(1), insert as a subsection heading, “*Calculation of amount of tax*”.
- 205 Section RF 2 amended (Non-resident passive income)** 20
In section RF 2(8), replace “Sections 50, 55, 100,” with “Section 100”.
- 206 Section RM 10 amended (Using refund to satisfy tax liability)**
In section RM 10(4), replace “under social policy schemes” 25
with “for social policy and other initiatives”.
- 207 Section RP 17 amended (Tax pooling intermediaries)**
Replace section RP 17(1), other than the heading, with:
- “(1) A person (**person A**) may ask a person who maintains a tax pooling account to act as a tax pooling intermediary between person A and the Commissioner in using funds in the tax pooling account to meet an obligation of person A to pay— 30
- “(a) provisional tax:
- “(b) terminal tax:

- “(c) an increased amount of tax described in section RP 17B(3):
- “(d) interest under Part 7 of the Tax Administration Act 1994 on an increased amount of tax described in section RP 17B(3).”

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208 Section RP 17B amended (Tax pooling accounts and their use)

- (1) Replace section RP 17B(2), other than the heading, with:

- “(2) An amount held in a tax pooling account on behalf of a person may be refunded, transferred, sold, or used to satisfy a person’s liability for—
- “(a) provisional tax:
 - “(b) terminal tax:
 - “(c) an increased amount of tax described in subsection (3):
 - “(d) interest under Part 7 of the Tax Administration Act 1994 on an increased amount of tax described in subsection (3).”

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- (2) In section RP 17B(5), replace the heading with “*Transfer within 60 days for increased amounts and use of money interest*”.

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- (3) In section RP 17B(5), replace “subsection (3)(a) to (ac)” with “subsection (3)(a) to (ac), or for interest under Part 7 of the Tax Administration Act 1994 on the increased amount of tax”.

- (4) In section RP 17B(6), replace the heading with “*Transfer within 60 days for deferrable tax and use of money interest*”.

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- (5) In section RP 17B(6), replace “subsection (3)(b)” with “subsection (3)(b), or for interest under Part 7 of the Tax Administration Act 1994 on the deferrable tax”.

- (6) Replace section RP 17B(7)(c) with:

- “(c) for a transfer under subsection (5), the total of—
- “(i) the increased amount of tax payable:
 - “(ii) interest payable under Part 7 of the Tax Administration Act 1994 on the increased amount of tax:”.

30

- (7) Replace section RP 17B(7)(d) with:

- “(d) for a transfer under subsection (6), the total of—
- “(i) the amount of deferrable tax payable:

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- “(ii) interest payable under Part 7 of the Tax Administration Act 1994 on the amount of deferrable tax.”
- (8) Replace section RP 17B(10), other than the heading, with:
- “(10) On application by the person, the Commissioner may agree in writing that the person may use funds in a tax pooling account for the increased amount of tax, or for interest under Part 7 of the Tax Administration Act 1994 on that increased amount of tax, if the Commissioner is satisfied that—
- “(a) the increased amount of tax arises as a result of an event or circumstance beyond the person’s control; and
 - “(b) the person has a reasonable justification or excuse for not filing the return by the required date; and
 - “(c) the person has an otherwise good compliance history for the 2 income years before the income year in which the voluntary disclosure referred to in subsection (3)(ab)(ii) is made.”
- 209 Section RP 19 amended (Transfers from tax pooling accounts)**
In section RP 19(1B), before paragraph (a), replace “person” with “person for provisional tax or terminal tax”.
- 210 Section RP 19B amended (Transfers for certain expected tax liabilities)**
Replace section RP 19B(5), other than the heading, with:
- “(5) If an overpayment arises as a result of a transfer under this section, the amount of the overpayment is treated as follows:
- “(a) first, the amount is transferred to meet a liability of the person for—
 - “(i) provisional tax and terminal tax referred to in section RP 17B(4)(a) or (b):
 - “(ii) an amount referred to in section RP 17B(5) consisting of an increased amount of tax and interest payable under Part 7 of the Tax Administration Act 1994 on the increased amount of tax:
 - “(iii) an amount referred to in section RP 17B(6) consisting of deferrable tax and interest payable

	under Part 7 of the Tax Administration Act 1994 on the deferrable tax:	
	“(b) secondly, the amount is transferred with an effective date that is no earlier than the date on which the Commissioner received the later request:	5
	“(c) thirdly, the amount is refunded to the person.”	
211	New cross-heading inserted (Refunds for life insurers) After section RZ 10, insert, as a cross-heading, “ <i>Refunds for life insurers</i> ”.	
212	New cross-heading (Tax pooling intermediaries) and section RZ 12 inserted (Adjustments to interest in requests made after commencement) After section RZ 11, insert: <i>“Tax pooling intermediaries</i>	10
	“RZ 12 Adjustments to interest in requests made after commencement	15
	<i>“When this section applies</i>	
	“(1) This section applies to a request (the original request) made to the Commissioner for a person by a tax pooling intermediary under section RP 17B(5) or (6) (Tax pooling accounts and their use) after 2 July 2014 and before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015 receives the Royal assent.	20
	<i>“Amendment request</i>	25
	“(2) The tax pooling intermediary, if authorised by the person, may make a request (the amendment request) to the Commissioner for the original request to be amended by adjusting the amount included to pay interest under Part 7 of the Tax Administration Act 1994.	30
	<i>“Permitted changes</i>	
	“(3) The amendments to the original request are limited to changes in—	
	“(a) the details required by section RP 19(4)(a) (Transfers from tax pooling accounts):	35

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- “(b) the details required by section RP 19(4)(b).
“*Maximum amount unchanged*
“(4) The original request as amended must not request the transfer of an amount exceeding the maximum amount specified in section RP 17B(7). 5
“*Time limit for amendment request*
“(5) The amendment request must be received by the Commissioner within 60 days from the date on which the Commissioner notifies the person of the amount of interest payable under Part 7 of the Tax Administration Act 1994. 10
“*Timing of effect*
“(6) The original request as amended is treated as being made on the date on which the original request was made.
“Defined in this Act: Commissioner, interest, tax pooling intermediary”.
- 213 Section YA 1 amended (Definitions) 15**
- (1) This section amends section YA 1.
- (2) In the definition of **acquire**,—
(a) replace paragraph (b) with:
“(b) be granted, for a patent, design registration, or plant variety rights: 20
“(bb) apply an artistic work industrially, as provided by section 75 of the Copyright Act 1994, for the copyright in the artistic work to which that section applies:
(b) in paragraph (c), replace “patent application” with “patent application, design registration application,”. 25
- (3) Repeal the definition of **attributed repatriation**.
- (4) Repeal the definition of **conduit company**.
- (5) In the definition of **continuity period**, after paragraph (b), insert:
“(c) is defined in **section MX 6(7)** (Reinstatement of R&D tax losses and R&D repayment tax) for the purposes of that section”. 30
- (6) In the definition of **continuity provisions**, after paragraph (f), insert:
“(fb) **section MX 6** (Reinstatement of R&D tax losses and R&D repayment tax); and”. 35

- (7) Insert, in appropriate alphabetical order:
“**contractor R&D consideration** is defined in **section MX 3(4)** (Wage intensity criteria)”.
- (8) Insert, in appropriate alphabetical order:
“**core technology** means technology which is used as a basis 5
for research or development”.
- (9) Insert, in appropriate alphabetical order:
“**design registration** means a registration of a design under
the Designs Act 1953, and includes a similar registration and
protection of a design under the laws of a country or territory 10
other than New Zealand”.
- (10) Insert, in appropriate alphabetical order:
“**design registration application** means an application for a
design registration”.
- (11) In the definition of **development**, replace “and section DB 34 15
(Research or development)” with “, section DB 34, and **sub-
part MX** (which relate to research and development)”.
- (12) In the definition of **dispose**, after paragraph (f)(i), insert:
“(ib) for a design registration application, conclude the
design registration application because a design 20
registration is granted in relation to the design
registration application.”.
- (13) In the definition of **distant workplace**, delete “the definition
of **distant workplace**,”.
- (14) In the definition of **distinctive work clothing**, replace “that 25
section” with “that section and section CW 17CC (Payments
for distinctive work clothing)”.
- (15) Repeal the definition of **emergency event**.
- (16) In the definition of **employee**, paragraph (b), replace “CW 17
and CW 17B to CW 18B” with “CW 17, CW 17B, CW 17C, 30
CW 17CB, CW 17CC, and CW 18”.
- (17) In the definition of **employee**, paragraph (c)(i), replace “(6)(b)
and (c)” with “(6)(b), (bb), (bc), and (c)”.
- (18) In the definition of **employer**, paragraph (c)(i), replace “(6)(b)
and (c)” with “(6)(b), (bb), (bc), and (c)” 35
- (19) Insert, in appropriate alphabetical order:

- “**fair dividend rate annual method** means the method of calculating FIF income or loss under section EX 52 (Fair dividend rate annual method)”.
- (20) Replace the definition of **fair dividend rate method** with:
“**fair dividend rate method** means the method of calculating FIF income or loss under—
“**(a)** section EX 52 (Fair dividend rate annual method); or
“**(b)** section EX 53 (Fair dividend rate periodic method)”.
- (21) Insert, in appropriate alphabetical order:
“**fair dividend rate periodic method** means the method of calculating FIF income or loss under section EX 53 (Fair dividend rate periodic method)”.
- (22) In the definition of **FIF superannuation interest**, before paragraph (a), replace “foreign superannuation scheme” with “foreign superannuation scheme, other than a scheme referred to in **section EX 33** (Exemption for Australian regulated superannuation savings)”.
- (23) In the definition of **FIF superannuation interest**, paragraph (a), before subparagraph (i), replace “when a resident of New Zealand” with “when being a resident of New Zealand and treated under all double tax agreements as resident in New Zealand”.
- (24) In the definition of **FIF superannuation interest**, paragraph (a)(i), replace “when a non-resident” with “when being a non-resident or treated under a double tax agreement as not resident in New Zealand”.
- (25) In the definition of **FIF superannuation interest**, paragraph (a)(ii), replace “section CF 3(21)(d)” with “section CF 3(21)(b) or (d) (Withdrawals from foreign superannuation scheme)”.
- (26) In the definition of **FIF superannuation interest**, paragraph (b), before subparagraph (i), replace “when a non-resident” with “when being a non-resident or treated under a double tax agreement as not being resident in New Zealand”.
- (27) In the definition of **goods**,—
(a) replace “in sections” with “in **subpart MX** (Tax credits for R&D tax losses), sections”; and

- (b) replace “in the definition” with “in the definitions of **R&D expenditure, R&D material, and**”.
- (28) Replace the definition of **group of companies** with:
“**group of companies**—
“(a) is defined in section IC 3 (Common ownership: group of companies): 5
“(b) for the purposes of **subpart MX** (Tax credits for R&D tax losses), includes 2 or more entities that would meet the requirements of the definition in section IC 3 if look-through companies and limited partnerships were treated as companies” 10
- (29) Insert, in appropriate alphabetical order:
“**indirect attributing interest**, for a person with an interest in a FIF, means the income interest that the person has in a foreign company if— 15
“(a) the FIF has an income interest in the foreign company; and
“(b) the income interest in the foreign company would be an attributing interest for the person if the person held the income interest directly” 20
- (30) In the definition of **insurance**, paragraph (b), replace “section YD 8(4)(a)” with “section YD 8(4)”.
- (31) Insert, in appropriate alphabetical order:
“**intellectual property** includes—
“(a) anything that results from research or development (for example, prototypes): 25
“(b) rights related to intellectual property (for example, a right to distribute an item for which there is a patent):
“(c) intellectual property of a category that is set out in Part 11 of the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, also known as the *TRIPS Agreement*” 30
- (32) In the definition of **international tax rules**, paragraph (a), repeal subparagraphs (i), (ii), and (iv).
- (33) Insert, in appropriate alphabetical order: 35
“**know-how** includes trade secrets, confidential information, and information with commercial value”.
- (34) Insert, in appropriate alphabetical order:

- “**mineral miner** is defined in section CU 6 (Meaning of mineral miner)”.
- (35) In the definition of **minimum market value interest**, after paragraph (b), insert:
“**(c)** is defined in **section MX 6(6)** (Reinstatement of R&D tax losses and R&D repayment tax) for the purposes of that section”.
- (36) In the definition of **minimum voting interest**, after paragraph (b), insert:
“**(c)** is defined in **section MX 6(6)** (Reinstatement of R&D tax losses and R&D repayment tax) for the purposes of that section”.
- (37) Replace the definition of **minister of religion** with:
“**minister of religion** is defined in **section CZ 33(8)** (Transitional exception for accommodation provided to ministers of religion) for the purposes of that section”.
- (38) Replace the definition of **minister of religion** with:
“**minister of religion** is defined in—
“**(a)** section CE 1E(6) (Exception: accommodation provided to ministers of religion) for the purposes of that section:
“**(b)** **section CZ 33(8)** (Transitional exception for accommodation provided to ministers of religion) for the purposes of that section”.
- (39) In the definition of **net loss**, replace “section 177C(5)” with “**section MX 5** (Cancellation of R&D tax losses) and section 177C(5)”.
- (40) Repeal the definition of **new start grant**.
- (41) Repeal the definition of **New Zealand repatriation amount**.
- (42) In the definition of **non-filing taxpayer**, paragraph (a), before subparagraph (i), replace “section 33A(1)” with “section 33A(1) or (1B)”.
- (43) In the definition of **non-filing taxpayer**, paragraph (a), before subparagraph (i), replace “section 33AA(1)” with “section 33AA(1) or 33D”.
- (44) In the definition of **non-IFRS designated FX hedge**, paragraph (c), replace “(2E)” with “(2E) (Consideration for agree-

- ment for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease)”.
(45) In the definition of **old reporting standard**, replace “section DB 34 (Research or development)” with “section DB 34 and **subpart MX** (which relate to research and development)”. 5
(46) In the definition of **out-of-town secondment**, replace “and CZ 29” with “CZ 29, and CZ 30”.
(47) In the definition of **period of continuous work**, replace “and CZ 29” with “CZ 29, and CZ 30”.
(48) In the definition of **permit area**, paragraph (b), replace “section 106” with “section 2(1)”. 10
(49) In the definition of **petroleum exploration expenditure**, paragraph (a)(iii), after “existing privilege”, insert “that is a prospecting licence granted under Part 1 of the Petroleum Act 1937”. 15
(50) Replace the definition of **petroleum permit** with:
“**petroleum permit** means—
“(a) an exploration permit for petroleum:
“(b) a prospecting permit for petroleum:
“(c) a petroleum mining permit: 20
“(d) an existing privilege that is a prospecting licence or mining licence granted under Part 1 of the Petroleum Act 1937”.
- (51) In the definition of **prescribed investor rate**, replace “table 1” with “tables 1 and 1B”. 25
(52) In the definition of **project of limited duration**, replace “and CZ 29” with “, CZ 29, and CZ 30”.
(53) In the definition of **property**, after paragraph (a), insert:
“(ab) in subpart FB (Transfers of relationship property), is defined in **section FB 1B(b)** (Meaning of settlement of relationship property and property): 30
“(ac) in subpart FC (Distribution, transmission, and gifts of property), is defined in section FC 1(2) (Disposals to which this subpart applies):”.
- (54) In the definition of **property**, replace paragraphs (ab) and (ac) with: 35

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- “(ab) in subpart FB (Transfers of relationship property), is defined in **section FB 1B(b)** (Meaning of settlement of relationship property and property):
- “(ac) in subpart FC (Distribution, transmission, and gifts of property), is defined in section FC 1(2) (Disposals to which this subpart applies):”.
- (55) In the definition of **public unit trust**,—
- (a) in paragraph (a), delete “in respect of which regulated offers are made under the Financial Markets Conduct Act 2013 and”; and
- (b) replace paragraphs (b)(vi) and (vii) with:
- “(vi) a person with an interest of 5% or less in the unit trust, treating all associated persons as 1 person:
- “(vii) a person with an interest of 5% or more in the unit trust, treating all associated persons as 1 person, if their interest is 5% or more because of unusual or temporary circumstances, such as the recent establishment or forthcoming termination of the unit trust, and if the unit trust would meet the requirements of any of paragraphs (a), (c), (d), and (e); or
- (56) In the definition of **research**, replace “and section DB 34 (Research or development)” with “, section DB 34, and **subpart MX** (which relate to research and development)”.
- (57) Insert, in appropriate alphabetical order:
- “**R&D expenditure** means expenditure for goods and services to the extent to which they relate to research or development, but does not include—
- “(a) expenditure for goods and services to the extent to which they relate to an activity described in **schedule 22** (Proscribed R&D activities):
- “(b) expenditure on goods and services used to provide a service of research or development to an external contractee, or used to further another person’s research or development activities:
- “(c) expenditure that corresponds to a payment for which the person has made an election under section CX 47(4) (Government grants to businesses):

- “(d) expenditure for which no deduction is available for the income year:
- “(e) expenditure for or under a financial arrangement:
- “(f) expenditure for the acquisition or transfer of intangible property, core technology, intellectual property, or know-how”. 5
- (58) Insert, in appropriate alphabetical order:
“**R&D material** means goods or services to the extent to which they relate to providing a service of research or development, but does not include goods and services to the extent to which they— 10
“(a) relate to activity described in **schedule 22** (Proscribed R&D activities):
“(b) are used to provide a service of research or development to an external contractor”. 15
- (59) Insert, in appropriate alphabetical order:
“**R&D repayment tax** means a tax liability payable under **section MX 6** (Reinstatement of R&D tax losses and R&D repayment tax)”.
- (60) In the definition of **right**, replace “agreement for sale and purchase” with “agreement for sale and purchase (ASAP)”. 20
- (61) In the definition of **services**,—
(a) in paragraph (a), replace “EA 3 (Prepayments)” with “EA 3 (Prepayments), and **subpart MX** (Tax credits for R&D tax losses)”. 25
(b) in paragraph (b), replace “and DB 2 (Goods and services tax)” with “, DB 2 (Goods and services tax), **subpart MX**, and in the definitions of R&D expenditure and R&D material”.
- (62) In the definition of **settlement of relationship property**, replace “section FB 1(3) (What this subpart does)” with “**section FB 1B(a)** (Meaning of settlement of relationship property and property)”. 30
- (63) Insert, in the appropriate alphabetical order:
“**shareholding** is defined in— 35
“(a) section EX 52(15) (Fair dividend rate annual method) for the purposes of that section:

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- “(b) section EX 53(17) (Fair dividend rate periodic method) for the purposes of that section:
“(c) section EX 56(19) (Cost method) for the purposes of that section”.
- (64) Insert, in appropriate alphabetical order: 5
“**tax credit for R&D tax losses** means a credit of tax under **subpart MX** (Tax credits for R&D tax losses)”.
- (65) Replace the definition of **tax position** with:
“**tax position** is defined in section 3(1) of the Tax Administration Act 1994”. 10
- (66) Insert, in appropriate alphabetical order:
“**tax situation** means, for the purposes of sections HZ 4B and HZ 4D (which relate to the transition of a qualifying company into a partnership or sole tradership), a status, right, obligation, liability, asset, or other thing authorised or arising under, 15
required or imposed by, or necessary to comply with an Inland Revenue Act, and debts payable to the Commissioner”.
- (67) Insert, in appropriate alphabetical order:
“**tertiary education institution** means an institution that is—
“(a) established under Part 14 of the Education Act 1989 and 20
has not been disestablished under that Act; and
“(b) not carried on for the private pecuniary profit of any individual
“**tertiary education subsidiary** is defined in **section CW 55BA(2)** (Tertiary education institutions and subsidiaries) 25
for the purposes of that section”.
- (68) Insert, in appropriate alphabetical order:
“**time of the disposal**, for a disposal of a business or of part of a business, means the date on which the agreement for the disposal is settled by the exchange of the seller’s business or 30
part of the business for the buyer’s consideration”.
- (69) Repeal the definition of **time of the sale**.
- (70) **Subsection (42)** applies for the 2008–09 and later income years.
- (71) **Subsection (43)** applies for income years beginning on or 35
after 1 April 2016.

- (72) **Subsection (49)** applies for the 2008–09 and later income years. However, **subsection (49)** does not apply to a person in relation to a tax position taken by the person—
- (a) for an arrangement entered into before the date of introduction of the Taxation (Annual Rates 2015-16, Research and Development, and Remedial Matters) Bill; and 5
 - (b) relying upon the definition of petroleum exploration expenditure as it was before the amendment made by **subsection (49)**. 10
- (73) **Subsection (50)** applies for the 2008–09 and later income years. However, **subsection (50)** does not apply to a person to which the exception in **subsection (72)** applies in relation to a tax position and an arrangement, to the extent that **subsection (50)** would otherwise modify the effect of section DT 2 15 in relation to the person and the arrangement.
- (74) **Subsections (53) and (62)** apply for the 2008–09 and later income years.
- (75) **Subsection (67)** applies for the 2008–09 and later income years. 20
- 214 Section YC 10 amended (Shareholders holding less than 10% direct interests)**
In section YC 10(1)(a), replace “applied:” with “applied; and”.
- 215 Schedule 6 amended (Prescribed rates: PIE investments and retirement scheme contributions)** 25
- (1) In schedule 6, table 1B, row 1, replace “double tax agreement” with “double tax agreement that provides a rate for withholding an amount of NRWT for dividends that is less than that provided by section RF 8(2)”. 25
 - (2) In schedule 6, table 1B, row 3, replace “double tax agreement” with “double tax agreement that provides a rate for withholding an amount of NRWT for dividends that is less than that provided by section RF 8(2)”. 30
 - (3) **Subsections (1) and (2)** apply for the 2012–13 and later income years, unless **subsection (4)** applies. 35

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- (4) **Subsections (1) and (2)** do not apply for a dividend attributed to an investor by a PIE before the date of introduction for the Taxation (Annual Rates for 2015-16, Research and Development, and Remedial Matters) Bill, if the PIE takes, before that date, a tax position for the dividend relying on the table amended by this section as it was immediately before the amendments made by this section. 5

216 Schedule 14 amended (Depreciable intangible property)

- (1) In schedule 14, after item 13, insert:

- 14 a design registration
- 15 a design registration application
- 16 the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies, if the artistic work has been applied industrially, as provided by that section of that Act

- (2) **Subsection (1)** applies for the 2015–16 and later income years. 10

217 New schedule 22 inserted (Proscribed R&D activities)

- (1) After schedule 20, insert new **schedule 22** as provided in **schedule 1** of this Act.

- (2) **Subsection (1)** applies for the 2015–16 and later income years. 15

218 Schedule 32 amended (Recipients of charitable or other public benefit gifts)

- (1) In schedule 32, insert, in appropriate alphabetical order, the item “ADC Incorporated (Aotearoa Development Cooperative)”. 20

- (2) In schedule 32, delete the item “Aotearoa Development Cooperative”.

- (3) In schedule 32, insert, in appropriate alphabetical order, the items “Adullam Humanitarian Aid Trust”, “Bicycles for Humanity, Auckland”, “Face Nepal Charitable Trust Board New Zealand”, “Hagar Humanitarian Aid Trust”, “Himalayan 25

Trust”, “International Needs Humanitarian Aid Trust”, “Mercy Ships New Zealand”, “Orphans Aid International Charitable Trust”, “ShelterBox New Zealand Charitable Trust”, and “So They Can”.

- (4) **Subsection (3)** applies for the 2015–16 and later income years. 5

219 Amendments to certain sale-related terms and definitions

- (1) Amendments are made at the locations specified in **schedule 2**, column 1, as indicated in the corresponding rows in **schedule 2**, columns 2 and 3. 10
- (2) **Subsection (1)** applies for the 2015–16 and later income years.

220 Amendments to lists of defined terms

The amendments specified in **schedule 3**, column 2, are made to the lists of defined terms in the sections indicated in the corresponding rows in **schedule 3**, column 1. 15

Part 4

Amendments to other enactments

Amendments to Tax Administration Act 1994

- 221 Tax Administration Act 1994 amended** 20
Sections 222 to 247 amend the Tax Administration Act 1994.

222 Section 3 amended (Interpretation)

- (1) In section 3(1), repeal the definition of **IR5 taxpayer**.
- (2) In section 3(1), definition of **late payment penalty**, repeal paragraph (b)(i), (ii), and (iii). 25

223 Section 15E amended (Revocation of approval)

In section 15E(2), replace “subsection (1)(b)” with “subsection (1)”.

224 Section 24O repealed (Certain information required from agricultural, horticultural, or viticultural employers)

- (1) Repeal section 24O.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

5

225 Section 33AA amended (Exceptions to requirement for return of income)

- (1) Replace new section 33AA(1)(a) with:

“(a) derives no assessable income other than income meeting the requirements of **subsection (2)**; and”.

10

- (2) In section 33AA(1)(c), replace “has total income of \$200 or less or derives no schedular payment other than” with “derives from schedular payments a total amount of \$200 or less, not including”.

- (3) Replace section 33AA(1)(d) with:

15

“(d) derives no beneficiary income or has assessable income of \$200 or less; and”.

- (4) After section 33AA(1)(n), insert:

“(o) is not issued a family notice of entitlement for any part of the tax year; and

20

“(p) is not living in a marriage, civil union, or de facto relationship, with a person who—

“(i) is issued with a family notice of entitlement for any part of the tax year:

“(ii) is paid by the chief executive of the administering department a family assistance credit for which the amount of family credit abatement under section MD 13 of the Income Tax Act 2007 is greater than zero.”

25

- (5) Replace section 33AA(2) with:

30

“(2) A person’s assessable income meets the requirements of this subsection if the assessable income,—

“(a) except for a total of \$200 or less, consists of—

“(i) income from employment that is subject to the PAYE rules:

35

“(ii) interest or a dividend that is subject to the RWT rules:

- “(iii) interest or a dividend that does not have a New Zealand source:
“(iv) a taxable Maori authority distribution:
“(v) a schedular payment; and
“(b) includes a total of \$200 or less of amounts referred to in **subsection (3).**” 5
- (6) In section 33AA(3), before paragraph (a), replace “subsection (1)(a)(i)” with “**subsection (2)(b)**”.
- (7) Replace section 33AA(3)(a) with:
“(a) an amount of income for which the obligations under the PAYE rules of the person are not met:” 10
- (8) Repeal section 33AA(4) to (6).
- (9) **Subsections (1), (2), (3), (4), (5), (6), (7), and (8)** apply for the 2016–17 and later tax years.
- 226 Section 33A amended (Annual returns of income not required)** 15
- (1) Replace section 33A(1)(a)(iiic) with:
“(iiic) a schedular payment; or”.
- (2) Replace section 33A(2)(d) with:
“(d) derives from schedular payments a total amount of more than \$200 that is not— 20
“(i) an amount or proportion of a schedular payment for which the Commissioner has made a determination under section RD 8(3) of the Income Tax Act 2007: 25
“(ii) income that is a personal service rehabilitation payment for a claimant under the Accident Compensation Act 2001; or
“(dba) derives assessable income of more than \$200 that includes beneficiary income; or” 30
- 227 Section 41 amended (Annual returns by persons who receive family assistance credit)**
Repeal section 41(4)(a).

- 228 Section 68C repealed (Tax credit relating to KiwiSaver and complying superannuation fund members: member credit form)**
Repeal section 68C.
- 229 Sections 68D, 68E, and 68F repealed** 5
Repeal sections 68D, 68E, and 68F.
- 230 New section 70C inserted (Statements in relation to tax credits for R&D tax losses and R&D repayment tax)**
After section 70B, insert:
- “70C Statements in relation to tax credits for R&D tax losses and R&D repayment tax** 10
- “(1) A person must file by electronic means, in the form and electronic format prescribed by the Commissioner, a statement in relation to—
- “(a) tax credits for R&D tax losses of the Income Tax Act 2007 that they claim for a tax year: 15
- “(b) R&D repayment tax that they must pay for a tax year.
- “(2) The statement described in **subsection (1)** must be filed with the Commissioner no later than the earliest of the following:
- “(a) the day that is 14 days after the person files a return of income for the relevant tax year: 20
- “(b) the day that is 14 days after the last day for filing a return of income for the relevant tax year under section 37.
- “(3) A person who must file the statement described in **subsection (1)** must file a return of income, for the relevant tax year, by electronic means. 25
- “(4) R&D repayment tax is due on the terminal tax date for the relevant tax year.”
- 231 Section 80D amended (Commissioner must issue income statement)** 30
In section 80D(1)(c)(iii), replace “who is required” with “who, because the person’s employer is not required to withhold an amount of tax for a PAYE income payment to the person, is required”.

232 Section 80KV replaced (Statement of family scheme income)

Replace section 80KV with:

“80KV Statement of family scheme income

- “(1) This section applies for a notice of entitlement for a tax year 5
that the Commissioner has given to a person.
- “(2) The person must, in the time within which the person is re-
quired to file the person’s return of income for the tax year,
give the Commissioner a complete statement of the person’s
family scheme income for the tax year. 10
- “(3) The person must include in the statement described in **sub-
section (2)** the family scheme income of the person’s spouse,
civil union partner, or de facto partner, as applicable, unless
that other person gives a statement of their own family scheme
income under **subsection (4)**. 15
- “(4) The person’s spouse, civil union partner, or de facto partner,
as applicable, may give a separate complete statement of their
own family scheme income, in the time within which the per-
son is required to file the person’s return of income.”

233 Section 81A amended (Disclosure of information under approved information sharing agreement) 20

In section 81A, replace—

- (a) “section 81” with “any other enactment in the Inland
Revenue Acts”; and
- (b) “this Act” with “an Inland Revenue Act”. 25

234 Section 89AB amended (Response periods)

- (1) In section 89AB(2), after “issue of the notice”, insert “, unless
section 89AC applies”.
- (2) In section 89AB(5), after “issue of the initiating notice”, insert
“, unless section 89AC applies”. 30

235 New section 89AC inserted (Response period when initiating notice filed late)

After section 89AB, insert:

“89AC Response period when initiating notice filed late

When the initiating notice is a notice of proposed adjustment referred to in section 89AB(2) or a statement of position referred to in section 89AB(5), and the disputant issues the initiating notice outside the applicable response period but the notice is treated as being issued within that period, the response period for the response to the initiating notice is a 2-month period beginning on the earlier of—

- “(a) the day on which the Commissioner issues a notice in favour of the disputant in accordance with section 89K(1):
- “(b) the day on which a challenge to the Commissioner’s refusal under section 89K(4) is finally judged successful by the Taxation Review Authority or by a court, or the day on which the Commissioner concedes.”

236 Section 89M amended (Disclosure notices)

Replace section 89M(6BA) with:

- “(6BA) The Commissioner must issue a statement of position, described in subsection (4), in response to the disputant’s statement of position, unless—
- “(a) the Commissioner issued a statement of position when issuing a disclosure notice:
 - “(b) the disputant and the Commissioner have reached an agreement in writing in accordance with section 89N(1)(c)(viii).”

237 Section 92AAA repealed (Determination on cost of timber)

- (1) Repeal section 92AAA.
- (2) **Subsection (1)** applies for the 2015–16 and later income years.

238 New section 97C inserted (Assessment of R&D repayment tax)

After section 97B, insert:

“97C Assessment of R&D repayment tax

- “(1) The Commissioner may, for a company chargeable with R&D repayment tax, make an assessment of R&D repayment tax

that the Commissioner considers should be imposed on the company.

“(2) The company is liable to pay the R&D repayment tax assessed except to the extent to which the company establishes in proceedings challenging the assessment that the assessment is excessive or that the company is not chargeable with the R&D repayment tax. 5

“(3) Sections 109, 111, and 113 apply to an assessment made under this section as if—

“(a) the references to **taxpayer** in those sections included a company chargeable with R&D repayment tax; and 10

“(b) the references to **tax already assessed** in section 113 included an amount of R&D repayment tax already assessed under this section.

“(4) An assessment made under this section is subject to challenge in the same manner as an assessment of income tax imposed under section BB 1 of the Income Tax Act 2007, and Part 7 of this Act applies accordingly.” 15

239 Section 113C repealed (Amended assessments for attributed repatriation dividends) 20
Repeal section 113C.

240 Section 120B amended (Persons excluded)
Repeal section 120B(aa).

241 Section 138G amended (Effect of disclosure notice)

(1) In section 138G(1), replace “(2) applies”, with “**(1B)** or (2) apply”. 25

(2) After section 138G(1), insert:

“(1B) Subsection (1) does not apply to limit the issues or the propositions of law that may be raised by the Commissioner if **section 89M(6BA)(b)** applies and the Commissioner has not issued a statement of position in response to the disputant’s statement of position.” 30

242 Section 139AA amended (Non-electronic filing penalty)
After section 139AA(1)(ab), insert:

“(ac) a portfolio investor proxy; and”.

- 243 Section 139B amended (Late payment penalty)**
In section 139B(1), replace the words before paragraph (a) with “This section applies to a taxpayer if and to the extent to which the taxpayer does not pay by the due date (the **default date**) an amount of tax (the **unpaid tax**), calculated by the taxpayer as payable or for which the taxpayer is assessed, and”.
- 244 Section 141A amended (Not taking reasonable care)**
Repeal section 141A(5).
- 245 Section 177D repealed (Relief to taxpayers to whom new start grants payable)**
Repeal section 177D.
- 246 Section 183ABA amended (Remission in circumstances of emergency event)**
In section 183ABA(1)(a) replace “emergency event” with “emergency event, declared in an Order in Council under this section,”.
- 247 Section 185 amended (Payment out of Crown Bank Account)**
- (1) In section 185(1)(c), replace “this Act” with “this Act or the Income Tax Act 2007”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- Amendments to Goods and Services Tax Act
1985*
- 248 Goods and Services Tax Act 1985 amended**
Sections 249 to 254 amend the Goods and Services Tax Act 1985.
- 249 Section 2 amended (Interpretation)**
- (1) In section 2, insert, in appropriate alphabetical order:

- “**body corporate** has the same meaning as in the Unit Titles Act 1972”.
- (2) In section 2, replace the definition of **body corporate** with:
“**body corporate** has the same meaning as in the Unit Titles Act 2010, but does not include a body corporate of a retirement village registered under the Retirement Villages Act 2003”.
- (3) In section 2, insert, in appropriate alphabetical order:
“**common property** has the same meaning as in the Unit Titles Act 2010”.
- 250 Section 5 amended (Meaning of term supply)** 10
- (1) Before section 5(8), insert:
“(8A) For the purposes of this Act, a levy or other amount paid by a body corporate’s member to the body corporate is treated as being consideration received for services supplied by the body corporate to the member.” 15
- (2) After section 5(8A), insert:
“(8AB) For the purposes of this Act, the total value of a body corporate’s funds on the day it becomes a registered person (the **registration day**) is treated as being consideration received for a service supplied by the body corporate in the course or furtherance of its taxable activity, and the supply of the service is treated as being performed on the registration day.” 20
- (3) In section 5(11GA), replace “subsection (11G)(b)” with “subsection (11G)(a)”.
- 251 Section 10 amended (Value of supply of goods and services)** 25
- (1) In section 10(7A), replace “5(3) and 5(3B)” with “5(3) or 5(3B)”.
- (2) In section 10(7A), replace “value of the supply” with “value of the supply. A supply of common property by a body corporate has a zero value.” 30
- 252 Section 48A repealed (Relief from tax where new start grant made)**
- Repeal section 48A.

253 Section 51 amended (Persons making supplies in course of taxable activity to be registered)

(1) After section 51(1), insert:

“(1B) In determining under subsection (1) the liability of a body corporate to be registered, the value of a supply of a service made by the body corporate to a member is not included in the total value of supplies made in New Zealand by the body corporate.” 5

(2) After section 51(5), insert:

“(5B) A body corporate that is registered under this Act as a result of an application under subsection (3) made on a date (the **application date**) on or after the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill must be registered with effect from a date after the application date.” 10 15

254 Section 52 amended (Cancellation of registration)

After section 52(7), insert:

“(8) If a body corporate is a registered person on the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and the registration is later cancelled after an application under subsection (2), the cancellation must take effect on or after the date on which the body corporate applies for cancellation of the registration. 20

“(9) If a body corporate is registered under this Act with effect from a date (the **registration date**) after the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and the registration is later cancelled after an application under subsection (2), the cancellation must take effect on or after the later of— 25 30

“(a) the date on which the body corporate applies for cancellation of the registration:

“(b) the day that is 4 years after the registration date.”

Amendments to Income Tax Act 2004

255 Income Tax Act 2004 amended 35
Sections 256 to 258 amend the Income Tax Act 2004.

256 New section CF 4 inserted (Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014)

After section CF 3, insert:

“CF 4 Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014 5

“When this section applies

“(1) This section applies when a person has, before 1 April 2014, an interest in a foreign superannuation scheme and—

“(a) the interest would, in the absence of this provision, be an attributing interest; and 10

“(b) on and after 1 April 2014 the interest is not an attributing interest; and

“(c) the person—

“(i) does not derive from the foreign superannuation scheme, in the period beginning with 1 January 2000 and ending before 1 April 2014, a payment that is a withdrawal: 15

“(ii) derives payments, each of which is a pension, from the foreign superannuation scheme in the period beginning with 1 January 2000 and ending before 1 April 2014 and includes each payment in a return of income, for the income year of the payment, that is received by the Commissioner by the due date for the return of income. 20 25

“No FIF income or FIF loss from interest

“(2) The person is treated as having no FIF income or FIF loss from the interest for the period beginning with the start of the 2005–06 income year and ending with the finish of the 2007–08 income year. 30

“Defined in this Act: attributing interest, Commissioner, FIF income, FIF loss, foreign superannuation scheme, income year, pension, return of income”.

257 Section DB 23 amended (Bad debts)

(1) Replace section DB 23(6)(b)(iii) with:

“(iii) the general limitations still apply, except that subsection (3) overrides the capital limitation for a 35

financial arrangement entered into in the ordinary course of business.”

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

- 258 Section NG 1 amended (Application of NRWT rules)** 5
In section NG 1(4)(b), replace “sections 50, 55, and 100, and Part 9” with “section 100 and Part 9”.

Amendments to Income Tax Act 1994

- 259 Income Tax Act 1994 amended**
Sections 260 and 261 amend the Income Tax Act 1994. 10

- 260 New section CC 5 inserted (Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014)**

After section CC 4, insert:

- “CC 5 Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014** 15

- “(1)** This section applies when a person has, before 1 April 2014, an interest in a foreign superannuation scheme and—

“(a) the interest would, in the absence of this provision, be an attributing interest; and 20

“(b) on and after 1 April 2014, the interest is not an attributing interest; and

“(c) the person—

“(i) does not derive from the foreign superannuation scheme, in the period beginning with 1 January 2000 and ending before 1 April 2014, a payment that is a withdrawal: 25

“(ii) derives payments, each of which is a pension, from the foreign superannuation scheme in the period beginning with 1 January 2000 and ending before 1 April 2014 and includes each payment in a return of income, for the income year of the payment, that is received by the Commissioner by the due date for the return of income. 30

“(2) The person is treated as having no FIF income or FIF loss from the interest for the period beginning with 1 January 2000 and ending with the finish of the 2004–05 income year.”.

261 Section NG 1 amended (Application of NRWT rules)

In section NG 1(4)(b), replace “sections 50, 55, and 100, and Part 9” with “section 100 and Part 9”.

*Amendments to Taxation (Annual Rates,
Employee Allowances, and Remedial Matters)
Act 2014*

262 Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 amended

10

Sections 263 to 265 amend the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014.

263 Section 2 amended (Commencement)

In section 2(30), delete “(10),”.

15

264 Section 129 amended (New section HR 12 inserted)

Replace section 129(2) with:

“(2) Subsection (1) applies—

“(a) on and after 1 April 2015, unless paragraph (b) or (c) applies:

20

“(b) on and after 14 April 2014, if—

“(i) the person’s activities are not predominantly the provision of housing; and

“(ii) the person is removed from the register of charitable entities before 1 April 2015 because section 32(1)(f) of the Charities Act 2005 applies:

25

“(c) on and after 1 April 2017, if the person’s activities are predominantly the provision of housing.”

265 Section 144 amended (Section YA 1 amended)

(1) Repeal section 144(10).

30

(2) Repeal section 144(27).

Amendment to Finance Act (No 2) 1990

**266 Section 3 of the Finance Act (No 2) 1990 amended
(Meaning of approved unit trust)**

In section 3(1) of the Finance Act (No 2) 1990, replace
“(within the meaning of section YA 1 of the Income Tax Act 5
2007)” with “(within the meaning of section YA 1 of the
Income Tax Act 2007, but ignoring paragraph (b)(x) of the
definition of unit trust)”.

*Amendment to Goods and Services Tax (Grants
and Subsidies) Order 1992*

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**267 Schedule to Goods and Services Tax (Grants and
Subsidies) Order 1992 amended (Non-taxable grants and
subsidies)**

In the schedule to the Goods and Services Tax (Grants and
Subsidies) Order 1992, after item 7 of that schedule, insert: 15

8 The Commissioner of Inland Revenue crediting,
transferring, refunding, dealing with, or otherwise paying,
a person’s tax credit under the Income Tax Act 2007 or
the Tax Administration Act 1994, if that tax credit is one
which the person has under **section MX 4** of the Income
Tax Act 2007.

Schedule 1

s 217

New schedule 22 inserted

Schedule 22

**s YA 1, definition of
R&D material**

Proscribed R&D activities

- 1 An activity performed outside of New Zealand.
- 2 Acquiring or disposing of land, and related activities, except if the land is used exclusively for housing research or development facilities.
- 3 Acquiring, disposing of, or transferring intangible property, core technology, intellectual property, or know-how, and related activities (for example, drafting sale and purchase agreements for patents).
- 4 Prospecting for, exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy.
- 5 Research in social sciences, arts, or humanities.
- 6 Market research, market testing, market development, or sales promotion, including consumer surveys.
- 7 Quality control or routine testing of materials, products, devices, processes, or services.
- 8 Making cosmetic or stylistic changes to materials, products, devices, processes, or services.
- 9 Routine collection of information.
- 10 Commercial, legal, and administrative aspects of patenting, licensing, or other activities.
- 11 Activities involved in complying with statutory requirements or standards.
- 12 Management studies or efficiency surveys.
- 13 Reproduction of a commercial product or process by a physical examination of an existing system or from plans, blueprints, detailed specifications, or publicly available information.
- 14 Pre-production activities, such as a demonstration of commercial viability, tooling-up, and trial runs.

**Taxation (Annual Rates for 2015–16,
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Schedule 2

Schedule 2

s 219

**Amendments to sale-related terms and
definitions in Income Tax Act 2007**

Section in Income Tax Act 2007 and location	Replace	With
CB 6(3), heading	“ <i>sold</i> ” in each place where it appears	“ <i>disposed of</i> ”
CB 23B, heading	“ sold ” in each place where it appears	“ disposed of ”
CB 30, heading	“ Sale ”	“ Disposal ”
CB 30	“sale” in each place where it appears	“disposal”
CB 31, heading	“ Sale ”	“ Disposal ”
CB 31(1)	“Sale”	“Disposal”
CD 29B(1)	“sell”	“sell or otherwise dispose of”
CD 34B(8)(a)	“sale and purchase”	“disposal and acquisition”
CD 43(19), heading	“ <i>sales</i> ”	“ <i>disposals</i> ”
CE 6(2)(a)	“buy”	“acquire”
CE 7	“sell”	“dispose of”
CW 1, heading	“ buying ”	“ acquiring ”
CW 1(1)	“buys”	“acquires”
CW 1(2), heading	“ <i>sold</i> ”	“ <i>disposed of</i> ”
CW 1(2)(a)	“sold” in each place where it appears	“disposed of”
CW 1(2)(b)	“sold” in each place where it appears	“disposed of”
CW 1(4)	“bought”	“acquired”
CZ 7(1), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
DB 13, heading	“ sold ”	“ disposed of ”
DB 13(1)	“sold”	“disposed of”
DB 25(1)	“repurchasing”	“reacquiring”

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Section in Income Tax Act 2007 and location	Replace	With
DB 31(4), heading	“ <i>services sold</i> ”	“ <i>services</i> ”
DB 38(3)	“sells”	“disposes of”
DB 38(4)	“sells”	“disposes of”
DB 38(4)	“sale” in each place where it appears	“disposal”
DB 39(1)	“sells”	“disposes of”
DB 39(2)	“sale”	“disposal”
DB 39(3)	“sale”	“disposal”
DB 40(1)	“sells”	“disposes of”
DB 40(2)	“sale”	“disposal”
DC 10, heading	“ Sale ”	“ Disposal ”
DC 10(1)(a)	“sells”	“disposes of”
DC 10(1)(b)	“sale”	“disposal”
DC 10(1)(c)	“sale”	“disposal”
DC 10(2), before paragraph (a)	“sale”	“disposal”
DC 10(2)(a)	“sale”	“disposal”
DC 10(2)(b)	“time of sale”	“time of the disposal”
DC 10(3), before paragraph (a)	“sale”	“disposal”
DC 10(3)(a)	“sold”	“disposed of”
DC 10, list of defined terms	“time of the sale”	“time of the disposal”
DC 11(1)(d)	“sale”	“disposal”
DP 8, heading	“ bought ”	“ acquired ”
DP 9, heading	“ bought ”	“ acquired ”
DP 9(1)	“buys”	“acquires”
DP 9(2)(a)	“sold” in each place where it appears	“disposed of”

**Taxation (Annual Rates for 2015–16,
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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
DP 9(2)(b)	“sold” in each place where it appears	“disposed of”
DP 9(3)(a)	“sale”	“disposal”
DT 2, heading	“ sale ”	“ disposal ”
DT 6, before paragraph (a)	“buying”	“acquiring”
DT 6, before paragraph (a)	“bought”	“acquired”
DT 6(a)	“bought”	“acquired”
DW 2(2)(b)	“sale”	“disposal of”
DX 1(3)(a)	“bought”	“acquired”
DX 1(5)(a)(ii)	“buy”	“acquire”
DZ 8, heading	“ Buying ”	“ Acquiring ”
DZ 8(1)	“buys”	“acquires”
DZ 8(1)	“buying”	“acquiring”
DZ 8(2)	“Buying”	“Acquiring”
EA 4(4), heading	“ <i>Sale</i> ”	“ <i>Disposal</i> ”
EA 4(4), before paragraph (a)	“sells”	“disposes of”
EA 4(4), before paragraph (a)	“sale”	“disposal”
EA 4(4)(a)	“sale”	“disposal”
EA 4(4)(b)	“time of sale”	“time of the disposal”
EA 4(4)(c)	“sale”	“disposal”
EA 4(4)(d), before subparagraph (i)	“sale”	“disposal”
EA 4(5), subsection heading	“ <i>Sale</i> ”	“ <i>Disposal</i> ”
EA 4(5), before paragraph (a)	“sale”	“disposal”

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Section in Income Tax Act 2007 and location	Replace	With
EA 4(5)(a)	“sale”	“disposal”
EA 4(5)(b)	“sale”	“disposal”
EA 4(5)(c)	“Sale”	“Disposal”
EA 4(6), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
EA 4(6)(a)	“sale”	“disposal”
EA 4(6)(b)	“sale”	“disposal”
EA 4(7), before paragraph (a)	“sale”	“disposal”
EA 4, list of defined terms	“time of the sale”	“time of the disposal”
EB 8(2)	“sold”	“sold or exchanged”
EB 17(3)	“sold”	“sold or exchanged”
EB 18(2)(a)	“purchase price”	“acquisition cost”
EC 24(2)(c)	“bought”	“acquired other than by way of being homebred”
EC 24(2)(c)	“purchase”	“acquisition”
EC 34(1), heading	“ <i>purchase</i> ”	“ <i>acquisition</i> ”
EC 34(1)	“bought”	“acquired”
EC 36, heading	“ bought ”	“ acquired ”
EC 36(1)	“bought”	“acquired”
EC 36(2), heading	“ <i>bought</i> ”	“ <i>acquired</i> ”
EC 36(2)	“bought”	“acquired”
EC 39(1)(c)	“buys”	“acquires”
EC 39(2)(c)	“buys”	“acquires”
EC 46(1)	“sale”	“sale or exchange”
EC 46(2)	“sale”	“sale or exchange”
EC 46(3)	“sale” in each place where it appears	“sale or exchange”
EC 47(1)	“sale”	“sale or exchange”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
EC 47(2)	“sale”	“sale or exchange”
EC 47(2)	“bought”	“acquired”
EC 47(2)	“purchase”	“acquisition”
EC 48(1)(a)(i)	“sale”	“sale or exchange”
EC 48(1)(a)(ii)	“buys”	“acquires”
EC 48(1)(b)(i)	“sale”	“sale or exchange”
EC 48(1)(b)(i)	“bought”	“acquired”
EC 48(1)(b)(ii)	“buys”	“acquires”
EC 48(2)	“buying”	“acquiring”
EC 48(8)	“bought”	“acquired”
EE 28(6)	“purchase”	“acquisition”
EE 31(2A)(b), before subparagraph (i)	“purchase”	“acquire”
EE 31(2A)(b)(i)	“purchase”	“acquisition”
EE 31(2A) (b)(ii)	“to purchase”	“to acquire”
EE 31(2A) (b)(ii)	“its purchase”	“its acquisition”
EE 31(3A)(b), before subparagraph (i)	“purchase”	“acquire”
EE 31(3A)(b)(i)	“purchase”	“acquisition”
EE 31(3A) (b)(ii)	“purchase”	“acquisition”
EE 31(4)(a)	“purchase”	“acquire”
EE 31(4)(b)	“purchase”	“acquire”
EE 64(1)(a)	“purchase”	“acquisition”
EH 34(1)(a)	“sales”	“disposals”
EH 34(2), heading	“Sales”	“Disposals”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
EH 34(2), before paragraph (a)	“sales”	“disposals”
EH 34(2)(a)	“sale”	“disposal”
EH 34(2)(b)	“sale”	“disposal”
EH 34(3)(b)	“sale”	“disposal”
EH 37(1)(b)	“sells”	“disposes of”
EH 38(1)	“sell”	“dispose of”
EH 61(2)(a)	“selling”	“disposing of”
EH 61(2)(b)	“sold”	“disposed of”
EH 61(3), heading	“ <i>sold</i> ”	“ <i>disposed of</i> ”
EH 61(3), before paragraph (a)	“sold”	“disposed of”
EH 61(4), heading	“ <i>sold</i> ” in each place where it appears	“ <i>disposed of</i> ”
EH 61(4)	“sold” in each place where it appears	“disposed of”
EH 61(4)	“unsold”	“not disposed of”
EH 61(5), heading	“ <i>sold</i> ”	“ <i>disposed of</i> ”
EH 61(5), before formula	“sold”	“disposed of”
EH 61(6)(a)	“sold” in each place where it appears	“disposed of”
EH 61(6)(b)	“sold” in each place where it appears	“disposed of”
EH 61(6)(b)	“buys”	“acquires”
EH 61(6)(b)	“sale”	“disposal”
EI 4(1)	“Sale”	“Disposal”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
EJ 2(6), definition of fishing business	“sale”	“sale or exchange”
EJ 3(1)(b)	“buying”	“acquiring”
EW 29(8), heading	“ <i>Sale</i> ”	“ <i>Disposal</i> ”
EW 29(8)	“sells”	“disposes of”
EW 43, heading	“ sold ”	“ disposed of ”
EW 43(1)	“sells”	“disposes of”
EW 43(2)	“sells” in each place where it appears	“disposes of”
EW 49, heading	“ sold ”	“ disposed of ”
EW 49(1)	“sells”	“disposes of”
EW 49(2)	“sells” in each place where it appears	“disposes of”
EW 49(5)(b)	“sold”	“disposed of”
EX 60(4), heading	“ <i>sales</i> ”	“ <i>disposals</i> ”
EX 61(4), heading	“ <i>sales</i> ”	“ <i>disposals</i> ”
EX 63(2), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
EX 64(2), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
EX 64(2)(a)	“sold”	“disposed of”
EX 64(4), heading	“ <i>purchase</i> ”	“ <i>acquisition</i> ”
EX 64(4)(a)	bought	“acquired”
EX 65(2)(c)	“sale”	“disposal”
EX 65(2)(c)	“repurchase”	“reacquisition”
EX 65(6)(c)	“sale”	“disposal”
EX 65(6)(c)	“repurchase”	“reacquisition”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
EX 66(2), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
EX 66(2), heading	“ <i>repurchase</i> ”	“ <i>reacquisition</i> ”
EX 66(2)(b)	“repurchased”	“reacquired”
EX 66(2)(c)	“sale”	“disposal”
EX 66(2)(c)	“repurchase”	“reacquisition”
EX 66B(2), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
EX 66B(2), heading	“ <i>repurchase</i> ”	“ <i>reacquisition</i> ”
EX 66B(2)(b)	“repurchased”	“reacquired”
EX 66B(2)(c)	“sale”	“disposal”
EX 66B(2)(c)	“repurchase”	“reacquisition”
EZ 7, heading	“Buying”	“Acquiring”
EZ 7(1)	“Buying”	“Acquiring”
EZ 7(2)	“buying”	“acquiring”
EZ 7(3)	“purchase” in each place where it appears	“acquisition”
EZ 7(4)	“purchase”	“acquisition”
EZ 23C, heading	“deemed sale and purchase”	“treatment as disposal and reacquisition”
EZ 23C(2), heading	<i>“Deemed sale and repurchase”</i>	<i>“Treatment as disposal and reacquisition”</i>
EZ 38(8)(d)(iv)	“sold”	“disposed of”
EZ 41, heading	“Sale”	“Disposal”
EZ 41(1)	“sold”	“disposed of”
EZ 41(2)	“sold” in each place where it appears	“disposed of”
EZ 41(3), before paragraph (a)	“sold”	“disposed of”
EZ 41(3)(a)	“sale”	“disposal”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
EZ 41(3)(b)	“sale”	“disposal”
EZ 41(5)	“sold”	“disposed of”
FA 4, heading	“ repurchasing ”	“ reacquiring ”
FE 16(1E)(b)(i)	“purchased”	“acquired”
FM 15(5)(a)	“purchase price”	“acquisition cost”
FM 15(5)(b)(i)	“purchasing”	“acquiring”
FO 10(4)(b)	“buying”	“acquiring”
GB 27(1)(a)	“purchases”	“acquires”
GB 27(2)(a)	“sale”	“supply”
GB 29(1)(c)	“selling”	“supplying”
HB 11(5)(a)	“purchases”	“acquires”
HD 29, heading	“ buying ”	“ acquiring ”
HD 29(1), before paragraph (a)	“a purchase”	“an acquisition”
HD 29(2), subsection heading	“ <i>buying</i> ”	“ <i>acquiring</i> ”
HD 29(2), before paragraph (a)	“purchase of goods”	“purchase or other acquisition of goods”
HM 38(3)(a)	“bought”	“acquired”
IZ 1(12), definition of specified activity , paragraph (c)(i)	“sale”	“disposal”
LH 17, definition of internal software development , paragraph (b)(i)	“selling, renting, licensing, hiring, or leasing”	“selling, exchanging, renting, licensing, hiring, or leasing”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
LH 17, definition of internal software development , paragraph (b)(ii)	“sold, rented, licensed, hired, or leased”	“sold, exchanged, rented, licensed, hired, or leased”
MB 1(5C), heading	“sale”	“disposal”
MB 1(5C)	“sale”	“disposal”
RD 40(1)(b)	“bought them, or paid for them to be bought”	“otherwise acquired them, or paid for them to be acquired”
RD 42(1), before paragraph (a)	“sells”	“disposes of”
RD 42(1)(c)	“sale”	“disposal”
RD 43(1), before paragraph (a)	“sells”	“disposes of”
RD 43(1), before paragraph (a)	“sale”	“sale or other disposal”
RD 43(1)(c)	“sale”	“disposal”
RD 43(1)(d)	“sale”	“disposal”
RD 44, heading	“ sold ”	“ disposed of ”
RD 44	“sells”	“disposes of”
RD 44	“sale”	“disposal”
RE 15(3), definition of alternative amount , paragraph (b)(ii)	“repurchase”	“reacquisition”
YA 1, definition of amortising property , paragraph (b)	“Buying”	“Acquiring”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
YA 1, definition of cost , paragraph (a)	“purchase”	“acquisition”
YA 1, definition of fixed establishment , paragraph (c)(ii)	“purchasing”	“acquiring”
YA 1, definition of forestry company , paragraph (a)	“buying”	“acquiring”
YA 1, definition of high-priced livestock , paragraph (a), before subparagraph (i)	“buys”	“acquires”
YA 1, definition of high-priced livestock , paragraph (a), before subparagraph (i)	“purchase”	“acquisition”
YA 1, definition of high-priced livestock , paragraph (a)(ii)	“purchase” in each place where it appears	“acquisition”
YA 1, definition of high-priced livestock , paragraph (b), before subparagraph (i)	“buys”	“acquires”
YA 1, definition of Maori investment company	“unpaid purchase money”	“an unpaid purchase amount”
YA 1, definition of Maori investment company	“bought”	“acquired”

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Schedule 2

Section in Income Tax Act 2007 and location	Replace	With
YA 1, definition of Maori owners , paragraph (a)	“bought”	“acquired”
YA 1, definition of other amortisation provision	“Buying”	“Acquiring”
YA 1, definition of qualifying debenture , paragraph (a)	“unpaid purchase money”	“an unpaid purchase amount”
YA 1, definition of qualifying debenture , paragraph (a)	“bought”	“acquired”
YA 1, definition of trading stock , paragraph (b), before subparagraph (i)	“sale”	“disposal”
Schedule 14(11)	“purchased”	“acquired”

**Schedule 3
Amendments to lists of defined terms in
Income Tax Act 2007**

s 220

Section	Amendment to list of defined terms
CQ 5	Insert “settlor”.
CZ 30	Insert “tax position”.
DN 6	Insert “settlor”.
EE 25	Delete “depreciation”.
EW 9	Insert “settlor”.
EX 43	Delete “matrimonial agreement”.
EX 43	Insert “relationship agreement”.
EX 46	Insert “gifting settlor”.
EX 52	Insert “shareholding”.
EX 53	Insert “shareholding”.
EX 56	Insert “shareholding”.
EZ 23BB	Insert “settlor”.
EZ 32E	Delete “tax position”.
EZ 52C	Insert “tax position”.
EZ 52D	Insert “tax position”.
EZ 56	Replace “payment” with “pay”.
EZ 57	Delete “payment”.
EZ 60	Replace “payment” with “pay”.
FB 12	Insert “partner” and “partnership”.
FB 13	Insert “dispose”.

**Taxation (Annual Rates for 2015–16,
Research and Development, and
Remedial Matters) Bill**

Schedule 3

Section	Amendment to list of defined terms
FB 17	Insert “dispose”.
FB 21	Insert “property”.
FC 2	Insert “property”.
FC 3	Insert “property”.
FC 7	Insert “property”.
FC 8	Insert “property”.
FE 36B	Replace “resident” with “resident in New Zealand”.
GC 3B	Replace “disposal” with “dispose”.
GZ 1	Delete “petroleum mining expenditure” and insert “petroleum exploration expenditure”.
HG 2	Delete “CTR additional dividend”.
HG 3	Delete “exiting partner”.
HZ 3	Replace “disposal” with “dispose”.
HZ 4B	Replace “tax position” with “tax situation”.
HZ 4D	Replace “tax position” with “tax situation”.
IQ 2	Replace “attributable FIF income” with “attributable FIF income method”.
MB 9	Delete “close company”.
RE 2	Delete “attributed repatriation”.
RF 11B	Replace “fully-imputed dividend” with “fully imputed”.
YZ 3	Insert “tax position”.